COMMONWEALTH OF DOMINICA

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COMMONWEALTH OF DOMINICA

ACT NO. 22 OF 2002

I assent

LS

(Sgd.) V. L. Shaw
President

24th December, 2002

AN ACT RESPECTING THE REGISTRATION OF ENGINEERS AND OTHERWISE REGULATING THE PRACTICE OF ENGINEERING.

(Gazetted 2nd January, 2003).

BE IT ENACTED by the Parliament of the Commonwealth of Dominica as follows:

Short title.

1. This Act may be cited as the –

ENGINEERING PROFESSION ACT 2002.

Interpretation.

2. In this Act –

"Appeals Tribunal" means the Tribunal referred to in section 22;

"Association" means the body known as the Dominica Association of Professional Engineers incorporated in the Commonwealth of Dominica under the Companies Act;

Act 21 of 1994.

"Board" means the Board of Engineering established under section 4;

"Disciplinary Committee" means the Committee referred to in section 11(1);

"Engineer" means a person who through specialized education, training and experience is skilled in the principles and practice of engineering;

"Engineering" means the performance of or the assumption of responsibilities for any professional service or creative work requiring engineering education, training and experience, and the application of special knowledge of the mathematical, physical and engineering sciences to such professional services or creative work as consultation, investigation, evaluation, planning, design, inspection and supervision of construction for the purpose of assuring compliance with specifications and design, execution of responsible maintenance and operational functions, in connection with the utilisation of the forces, energies and materials of nature in the development, production and functioning of any of the works or operations or other matters set out in the First Schedule;

First Schedule.

"Form", identified by a number, means the Form of that number set out in the Second Schedule;

Second Schedule.

"Minister" means the Minister with responsibility for engineering;

"Organisation" means a body of persons whether corporate or unincorporate;

"Register" means the Register of Engineers required to be kept by the Registrar in accordance with section 19;

"registered engineer" means an engineer registered under this Act to engage in the practice of engineering as an engineer in the category attested to by his certificate of registration;

"Registrar" means the Registrar appointed by the Board under section 18.

Prohibitions unless registered engineer.

3. (1) Three months after the coming into operation of this Act, no person, unless he is a registered engineer under this Act, shall -

(a) carry on the practice of engineering;

(b) take or use, in relation to himself, the description"registered engineer", "Professional engineer", "engineer", or any abbreviation of those titles either alone or in conjunction with any other words or initials in such a manner as to imply that he is qualified to carry out the practice of engineering;

(c) take or use, in relation to himself, any designation, title, name, initials or description indicating or implying that he is entitled to carry on the practice of engineering;

(d) advertise himself as a registered engineer;

(e) act in a manner so as to induce the belief that he is a registered engineer; or

(f) sign or stamp any plans, drawings, designs, specifications or reports purporting to be acting in the capacity of a registered engineer.

(2) A person shall be deemed to carry on the practice of engineering if -

(a) he practises any branch or category of engineering;

(b) by verbal claim, sign, advertisement, letter-head, business card, electronic means or otherwise, he represents himself to be a registered engineer;

(c) through the use of some title, he implies that he is a registered engineer; or

(d) subject to subsection (3) he holds himself out as being able to perform or actually performs any engineering service or work.

(3) For the purposes of this Act, a person not being a registered engineer, does not carry on the practice of engineering by reason only that he does so in the course of his duties as an employee or agent of a registered engineer or under the direction of a registered engineer.

Establishment and constitution of the Board.

4. (1) There is hereby established a Board of Engineering which shall be a body corporate.

(2) The members of the Board shall be appointed by the Minister and shall consist of -

(a) four registered engineers nominated by and holding senior membership in the Association;

(b) a public officer who is registered or is eligible to be registered as a registered engineer; and

(c) two persons appointed to represent the public interest.

(3) Notwithstanding subsection (2), for the purpose of appointing the first Board -

(a) the four engineers nominated under subsection (2)*(a)* shall not be registered engineers, but shall be senior members of the Association; and

(b) the public officer appointed as a member of the Board under subsection (2)*(b)* shall be a senior member of the Association.

(4) Except in the case of the first Board, the Chairman shall be a registered engineer, appointed by the Board from among its members.

(5) Only citizens of or persons who are ordinarily resident in the Commonwealth of Dominica shall be eligible to be appointed to the Board.

(6) A person appointed to the Board under subsection (2)*(a)* and *(b)* shall have been engaged in the practice of engineering for at least eight years.

(7) For the purpose of subsections (2)*(a)* and (3) and section 24(1), the term "senior membership in the Association", or "senior member of the Association" means an engineer who holds membership as a Member of the Association under the By-Laws of the Association as distinct from an engineer who holds membership in the Association as an Associate Member, Student Member, Affiliate Member or Honorary Member.

Term of office.

5. A person appointed to the Board holds office for a term of three years but is eligible for re-appointment for a maximum of two further consecutive terms.

Resignation.

6. (1) A member of the Board other than the Chairman may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman.

(2) The Chairman may at any time resign his office by instrument in writing addressed to the Minister.

Revocation of appointment.

7. The Minister may, after consultation with the Board, revoke the appointment of any member of the Board who –

(a) absents himself from three consecutive meetings of the Board without leave of the Board;

(b) is convicted of an offence under this Act or an offence under any law of the Commonwealth of Dominica involving dishonesty, fraud or turpitude;

(c) becomes totally or permanently incapable of performing his duties as a member of the Board;

(d) is the subject of disciplinary proceedings under this Act; or

(e) is guilty of gross misconduct in relation to the performance of his duties.

Vacancies.

8. Where a vacancy occurs in the membership of the Board, such vacancy may be filled by the Minister in the same manner and on the same basis on which the appointment becoming vacant was made and the new member shall hold office for the remainder of the period for which his predecessor was appointed.

Meetings.

9. (1) The Board shall hold meetings as often as may be necessary or expedient for the purpose of fulfilling its functions and such meetings shall take place not less than twice in each calendar year.

(2) Ten days notice in writing of every meeting of the Board shall be given to each member of the Board.

(3) A quorum of any meeting of the Board shall be four members of which at least two shall be registered engineers, except in the case of the first Board, but in other respects the Board may regulate its own procedure.

(4) Decisions of the Board are to be by a majority of votes, and where voting is equal, the Chairman, in addition to his original vote, has a casting vote.

Functions of the Board.

10. The functions of the Board are -

(a) to assess the qualification and experience of persons applying for registration as registered engineers;

(b) to conduct examinations of persons applying for registration as registered engineers;

(c) to register engineers and organizations engaging in engineering work and to issue certificates of registration to engineers and certificate of authorization to organizations;

(d) to monitor adherence to and investigate breaches of the Code of Ethics;

(e) to exercise disciplinary control over registered engineers;

(f) to publish by Notice in the *Gazette* for public scrutiny, in a format to be decided by the Board, a list of qualifications and institutions recognized by the Board in respect of the engineering training required by this Act;

(g) to advise the Minister respecting amendments to this Act or the making of Regulations or Orders to be made under this Act; and

(h) generally to regulate the practice of engineering in accordance with this Act and Regulations made thereunder.

Disciplinary Committee.

11. (1) There is hereby established a Disciplinary Committee consisting of three registered engineers not being members of the Board who shall be appointed by the Board.

(2) The Disciplinary Committee shall investigate and report to the Board on any allegation of misconduct or breach of the Code of Ethics by registered engineer as to whether there are grounds for disciplinary proceedings being brought before the Board against that registered engineer.

(3) On receipt of such report from the Disciplinary Committee, the Board shall -

(a) determine whether or not disciplinary proceedings shall be brought in accordance with section 31; and

(b) if such proceedings are brought, furnish a copy of such report to the registered engineer against whom they are brought.

(4) The report of the Disciplinary Committee may be used in the proceedings but the Board shall not be restricted to evidence appearing or referred to in the report.

Other Committees.

12. (1) The Board may appoint such other committees as it may think fit, including an Accreditation Committee and an Assessment Committee, to assist in the exercise of its functions.

(2) The Board may, by instrument in writing, delegate to any such committee the power and authority to carry out on its behalf such duties as the Board may determine.

Accreditation Committee.

13. (1) Where an Accreditation Committee of the Board is appointed, the Committee shall be appointed by the Board and shall be composed of three or more registered engineers who need not be members of the Board.

(2) An Accreditation Committee shall -

(*a)* assist the Board in the preparation of the list of qualifications and institutions required by section 10*(f)* to be published for public scrutiny;

(b) assess and keep under review the academic qualifications for registration as a registered engineer;

(c) scrutinize, examine and investigate the academic qualifications of individual applicants for registration as registered engineers; and

(d) assist the Board in the preparation and conduct of examinations as the Board considers necessary.

Assessment Committee.

14. (1) Where an Assessment Committee of the Board is appointed, the Committee shall be appointed by the Board and shall be composed of three or more registered engineers who need not be members of the Board.

(2) An Assessment Committee shall review the engineering work done by applicants seeking to qualify for registration and make recommendations in this regard to the Board.

Joint Accreditation and Assessment Committee.

15. The Board may, if it thinks necessary, establish one committee to perform the functions of both an Accreditation Committee and an Assessment Committee.

Secretary and officers.

16. The Board may appoint a secretary and such other officers and employees, as the Board considers necessary for the purpose of carrying out its functions under this Act.

Remuneration.

17. (1) The Chairman and other members of the Board shall be paid such remuneration, whether by way of honorarium or allowances, as may be determined by the Minister.

(2) The Registrar and other officers and employees shall be paid such remuneration, whether by way of honorarium, salary, fees or allowances, as may be determined by the Board.

(3) Any payment made under this section shall be paid from the funds of the Board.

Registrar.

18. The Board shall appoint a registered engineer to perform the functions of Registrar.

Functions of the Registrar.

19. (1) The Registrar shall keep a register of registered engineers to be known as "the Register" in which shall be entered the following particulars in respect of each person entitled to be registered -

(a) his full name and address;

(b) the date of registration;

(c) a description and date of the engineering qualifications acceptable to the Board; and

(d) the engineering discipline or disciplines which he is authorised to practice under this Act.

(2) The Register shall at all reasonable times be open to inspection at the office of the Registrar during normal working hours.

(3) The Registrar shall publish at least once in every year in the *Gazette*, the list of persons included in the Register and a list of those persons whose certificates of registration have been suspended or cancelled.

(4) The Registrar shall –

(a) make alterations in the Register of the names of all persons registered under this Act when necessary; and

(b) remove from the Register the names of all persons registered under this Act who are deceased or are no longer qualified to practice engineering.

Application for registration. Form 1.

20. (1) Every application for registration as an engineer under this Act shall be in Form 1.

(2) The Board may require such evidence of identity or such verification of any matter alleged by the applicant or such further information relating to the application as it thinks necessary.

(3) Every application under this section must be –

(a) signed by the applicant;

(b) accompanied by the appropriate application fee specified in the Second Schedule; and

Second Schedule.

(c) delivered to the Registrar.

Certificate of Registration.

21. (1) If the Board is satisfied in relation to any application for registration that -

(a) the provisions of section 20 have been complied with; and

(b) the applicant is qualified for registration under the provisions of section 24 or 25,

the Board shall register the applicant as an engineer in such category as the Board thinks appropriate and shall notify the applicant in writing accordingly and shall direct the Registrar to

issue to him a Certificate of Registration in Form 2, upon payment of the registration fee specified in the Second Schedule. Form 2. Second Schedule.

(2) For the purpose of registration under this Act, the Board may require an applicant to submit to such examination relating to his competence as an engineer as the Board thinks necessary.

(3) If the Board is not satisfied as to the eligibility of the applicant to be registered under this Act or as to his eligibility to be registered in the category in which he claims to be entitled to registration, it shall refuse to register the applicant or to register him in that category, as the case may be and shall notify him in writing accordingly and shall inform him of the right of appeal conferred by section 23.

(4) Every person registered as an engineer under this Act shall be entitled to carry on the practice of engineering in Dominica in the category in which he is registered and to demand and recover any reasonable charges for services rendered by him in that capacity.

(5) A copy of the *Gazette* listing the information required to be published under section 19 (3) is admissible in any proceedings, as evidence that a person is or is not registered as a registered engineer or has had his certificate of registration suspended or cancelled.

(6) Where the Board refuses an application for registration as a registered engineer, it shall provide reasons for such refusal.

22. There shall be an Appeals Tribunal appointed by the Minister and consisting of three registered engineers of no less than ten years experience, not being members of the Board, which Tribunal shall hear all appeals against the refusal of the Board to register an applicant as a registered engineer. Appeals Tribunal.

23. (1) An applicant aggrieved by the refusal of the Board to register him under this Act may - Redress of rejected applicants.

(a) within three months of such refusal appeal to the Appeals Tribunal; or

(b) where he is of the view that there are additional facts or that fresh circumstances have arisen which warrant the reconsideration by the Board of his application for registration, reapply to the Board for such reconsideration no sooner than twelve months from the date of refusal.

(2) A person who appeals under subsection (1) *(a)* is entitled to be represented at the hearing by a legal practitioner of his choice.

Qualifications for registration.

24. (1) A person who is a senior member of the Association at the date of commencement of this Act and who continues to hold such membership is entitled as of right to be registered as a registered engineer.

(2) A person, who is a registered engineer in another Caricom Territory that has entered into a reciprocal Agreement or Treaty with the Commonwealth of Dominica acknowledging the registration of any engineer registered under this Act as proof of his qualification to practice in that Caricom Territory, shall upon application in Form 1 be entitled to be included in the Register on payment of the application fee and the annual practice fee specified in the Second Schedule.

Form 1.

Second Schedule.

(3) Subject to section 25, a person is entitled to be registered as a registered engineer under this Act if on application made to the Board, he satisfies the Board that -

(a) he is qualified to be registered as a registered engineer;

(b) he is a fit and proper person to practice as a registered engineer;

(c) he has been awarded a degree, diploma or other qualification in engineering granted by an accredited University or School of Engineering that, in

the opinion of the Board, is evidence of satis factory training in engineering; and

(d) he has had not less than four years experiencein the practice of engineering and has acquired such standard of proficiency as may be approved by the Board.

(4) In determining the acceptability of the engineering qualifications of a person applying for registration, the Board may conduct special investigations as it considers necessary and may require that person to undergo a written or oral examination in engineering or both such written and oral examination.

Registration of persons who lack qualifications.

25. (1) Notwithstanding section 24, where a person does not possess the qualifications specified in that section but on application made to the Board within two years of the commencement of this Act, satisfies the Board that -

(a) he has had, before the commencement of this Act, ten years experience in the practice of engineering, and

(b) he is a fit and proper person to be registered as a registered engineer,

that person is entitled to be registered as a registered engineer.

(2) In determining whether a person satisfies the requirements of subsection (1), the Board shall conduct an investigation relating to the experience of that person, as it considers necessary and may require that person to undergo a written or oral examination in engineering or both such written and oral examination.

Annual fee. Second Schedule.

26. A registered engineer shall pay to the Board the annual practice fee specified in the Second Schedule.

Fee for amendment of Register. Second Schedule.

27. A registered engineer shall on payment to the Board of the appropriate fee specified in the Second Schedule have endorsed on the Register and on his Certificate of Registration any further registrable qualifications acquired subsequent to registration.

Seal.

28. (1) Every person registered under this Act shall have a seal of a design approved by the Board, the impression of which shall contain the name of the engineer and his assigned registration number.

(2) All final drawings, specification, plans, reports and other documents involving the practice of engineering when issued shall bear the signature and seal of the registered engineer who prepared or approved them.

Improperly obtained registration.

29. (1) The Board shall, if it considers that a person registered as an engineer has improperly obtained such registration, require that person to apply and be properly registered under this Act.

(2) If for a period of three months a person who has improperly obtained registration under this Act fails without reasonable excuse to apply to be properly registered, the Board may cause the name of the person to be struck off the Register.

Code of Ethics Third Schedule.

30. (1) A registered engineer shall conform to the Code of Ethics for registered engineers set out in the Third Schedule.

(2) A registered engineer who breaches any provision of the Code of Ethics is liable to disciplinary action by the Board.

Disciplinary proceedings.

31. (1) In any disciplinary proceedings held by the Board, the Board shall in addition to any other requirement imposed by any Regulations under this Act –

(a) furnish two weeks minimum notice to the registered engineer against whom the misconduct or breach of the Code of Ethics is alleged, stating the nature and details of the alleged misconduct or breach of the Code of Ethics; and

(b) allow the registered engineer against whom the misconduct or breach of the Code of Ethics is alleged, the right to be heard in his defence, to be represented by a legal practitioner of his choice

where so requested and the right to cross-examine any witnesses called in.

(2) Where the Board fails to comply with subsection (1), any decision taken by the Board, which adversely affects the career or interest of the registered engineer subjected to the disciplinary proceedings, is void.

(3) In the exercise of its disciplinary powers, the Board may, where it is satisfied that an allegation of misconduct or breach of the Code of Ethics is proved, reprimand the registered engineer or suspend or cancel his Certificate of Registration.

Organisations.

32. (1) No organisation –

(a) shall be entitled to be registered under this Act, except as provided for in this section; or

(b) shall engage in engineering work, unless it has a valid Certificate of Authorisation issued pursuant to subsection (2).

Form 3.
Second Schedule.
Form 4.

(2) The Board may, upon receipt of an application in Form 3, direct the Registrar to issue, upon payment of the authorisation fee specified in the Second Schedule, a Certificate of Authorisation in Form 4 to an organisation which satisfies the Board that –

(a) the practice of engineering is or will be one of its principal functions; and

(b) the practice of engineering is or will be carried out under the responsibility and supervision of at least one member or full-time employee of the organisation who is a registered engineer in the category of engineering work being carried on or to be carried on by the organisation.

(3) Every Certificate of Authorisation issued in accordance with this section shall, subject to the provisions of this Act, be valid for a period of two years and shall entitle the holder thereof to carry on the practice of engineering, subject to such conditions as may be imposed by the Board.

(4) The Registrar shall enter the name of every organisation to which a Certificate of Authorisation has been issued pursuant to this section in a separate part of the Register.

(5) Every application made pursuant to subsection (2) must contain the following:

(a) the names and addresses of every member of the organisation;

(b) the name and category of registration of every member or full-time employee of the organisation who is a registered engineer and who will supervise and be responsible for the engineering work of the organisation; and

(c) the category, or categories in which the organisation carries on or intends to carry on the practice of engineering.

(6) Any change in the particulars referred to in paragraph *(a)* or *(b)* of subsection (5) shall be notified to the Registrar within thirty days after the effective date of such change and no change shall be made as respects the particulars referred to in paragraph *(c)* of that subsection, without the prior approval of the Board.

(7) Every application made pursuant to subsection (2) shall be accompanied by the appropriate application fee specified in the Second Schedule.

Second Schedule.

(8) Where an authorised organisation ceases to have at least one member or full-time employee who is a registered engineer in such category as is relevant to the work of the organisation and who supervises and is responsible for that category of the engineering work of the organisation, the Registrar shall amend or, as the case may be, cancel the registration and Certificate of Authorisation as may be necessary to ensure that the authorisation is limited to engineering work of the organisation that is properly supervised by a registered engineer.

(9) Where the Board is satisfied that an authorised organisation -

(a) has failed to observe any of the provisions of this section;

(b) has knowingly made a false statement or supplied any false information or document in support of its application for a Certificate of Authorisation; or

(c) has been guilty of conduct that would, in the case of a registered engineer, constitute professional misconduct,

the Board may suspend or cancel the Certificate of Authorisation and direct the Registrar to strike the name of the organisation off the Register.

(10) Where -

(a) a person contravenes the provisions of this Act he commits an offence and is liable to a fine of twenty thousand dollars and to imprisonment for two years;

(b) an organization contravenes the provisions of this Act it commits an offence and is liable to a fine of one hundred thousand dollars.

(11) Notwithstanding subsection (10) (b) where an offence is committed by an organisation a person who at the time of the contravention was a partner or a director, general manager, secretary or similar officer of that organization or was purporting to act in any such capacity is liable to be prosecuted for an offence against this Act as if he had personally committed that offence and is also guilty of an offence under this Act, if on such prosecution it is proved to the satisfaction of the Court that he consented to or connived at or did not exercise all such reasonable diligence as he might in the circumstances have exercised to prevent the offence, having regard to the nature of his functions in that capacity and to all the circumstances.

Offences and penalties.

33. (1) No person shall –

(a) fraudulently procure or attempt to procure the registration under this Act of himself or any person by making or producing or causing to be made or produced any false or fraudulent representation, statement or declaration, either orally or in writing;

(b) fraudulently make, cause or permit to be made –

(i) any false or incorrect entry or copy of an entry in the Register; or

(ii) any alteration in any entry or copy of any entry in the Register.

(2) A person who contravenes the provisions of this section or section 3 commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for two years.

Consent of Director of Public Prosecutions.

34. The consent of the Director of Public Prosecutions shall be obtained before any criminal proceedings are brought under this Act.

Amendments of Schedules to the Act.

35. The Minister may by Order, on the recommendation of the Board, amend the Schedules to this Act.

Regulations.

36. The Minister may, on the recommendation of the Board and subject to a negative resolution of Parliament, make Regulations for the better implementation of the provisions of this Act and without prejudice to the generality of the foregoing may make Regulations respecting –

(a) the effective carrying out of the functions of the Board;

(b) the registration of registered engineers and the issue of Certificates of Registration and Certificates of Authorisation;

(c) the Register, including its contents, the categories of engineering disciplines in which an engineer

may be qualified and in respect of which his name shall be entered in the Register;

(d) complaints about the professional conduct of registered engineers and the disciplining of registered engineers;

(e) the procedures of the Disciplinary Committee, the other Committees that may be appointed by the Board and the Appeals Tribunal;

(f) the review, payment and collection of fees;

(g) the conduct of examination; and

(h) any matter ancillary to the provisions of this Act.

37. Nothing in this Act shall be construed as limiting or affecting the right of a person to seek a remedy to which the person is entitled under any other law.

FIRST SCHEDULE (Sections 2 & 35).

ENGINEERING OPERATIONS

(a) public utilities;

(b) industrial works, harbour works, drainage works, irrigation works, sewerage works and sewage disposal works and hydraulic works;

(c) industrial processes;

(d) railways, tramways, bridges, tunnels, roads, highways, canals and river improvements;

(e) lighthouses, wet docks, dry docks and floating docks;

(f) cranes, dredges, hoists, lifts and winches;

(g) waterworks, water purification plants;

(h) incinerators;

(i) power transmission systems, commercial, industrial and municipal electrical installations and electrical or electronic communication systems and equipment;

(j) any electrical apparatus or machinery;

(k) electronics;

(l) mineral property mining development or minal operations of any kind;

(m) smelters, refineries, metallurgical machinery or equipment or apparatus for boilers and their auxiliaries;

(n) boilers and their auxiliaries;

(o) steam engines, hydraulic turbines, pumps, internal combustion engines and other mechanical structures;

(p) chemical machinery;

(q) airports, airfields and landing strips;

(r) all ships of more than fifty tonnes gross, classified or unclassified, their propulsion unit and safety of life at sea equipment;

(s) garages, hotels, any industrial building to be used for any industrial purpose;

(t) public buildings and places used for or offered for use as places for public assembly;

(u) commercial, domestic and other buildings which are more than two floors high or are greater than one hundred and fifty square metres in gross floor area or is of such a nature that requires Engineer's Certification in accordance with the regulations of the Planning Authority;

(v) generally all other engineering works including the engineering works and installations relating to town and community planning.