

**THE NATIONAL COUNCIL FOR
CONSTRUCTION ACT, 2003**

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GOVERNMENT OF ZAMBIA

ACT

No. 13 of 2003

Date of Assent: 16th September, 2003

An Act to provide for the establishment of the National Council for Construction and to define its functions; to provide for the promotion and development of the construction industry in Zambia; to provide for the registration of contractors; to provide for the affiliation to the Council of professional bodies or organisations whose members are engaged in activities related to the construction industry; to provide for the regulation of the construction industry; to provide for the establishment of the Construction School; to provide for the training of persons engaged in construction or in activities related to construction; and to provide for matters connected with or incidental to the fore-going.

[16th September, 2003

ENACTED by the Parliament of Zambia

Enactment

PART I

PRELIMINARY

1. (1) This Act may be cited as the National Council for Construction Act, 2003 and shall come into operation on such date as the Minister may, by statutory instrument, appoint, provided that the Minister shall not appoint a day that is later than six months after the enactment of the Act.

Short title
and
commence-
ment

(2) Where a day is not appointed under subsection (1), the Act shall be deemed to come into force on the date of expiration of the period referred to in that subsection.

2. In this Act, unless the context otherwise requires—

Interpretation

“affiliated body” means a professional body or trade association that is affiliated to the Council;

“Agency” means the Road Development Agency established under the Public Roads Act;

“architect” means an architect registered under the Zambia Institute of Architects Act;

Act No. 12
of 2002

Cap. 442

Cap. 432

- "best practice" means a desirable and appropriate standard, process, procedure, method or system in relation to the delivery process and the life cycle of fixed assets;
- "best practice contractor recognition scheme" means the best practice contractor recognition scheme referred to in section *sixteen*;
- "best practice project assessment scheme" means the best practice project assessment scheme referred to in section *sixteen*;
- "Buildings Department" means the Buildings Department in the Ministry responsible for works and supply;
- "Chairperson" means the person elected Chairperson of the Council under section *four*;
- "committee" means a committee of the Council constituted under paragraph 4 of the First Schedule
- "contractor" means a person, or body of persons, who undertakes to execute and complete construction works;
- "construction works" means the provision of a combination of goods and services for the development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of a fixed asset including building and engineering infrastructure;
- "Council" means the National Council for Construction established under section *three*;
- "engineer" means a civil, structural, services or building engineer registered under the Engineering Institution of Zambia Act;
- "foreign company" means a company registered, or controlled from, outside Zambia and in which fifty-one per cent or more of the shares are owned by a non-Zambian;
- "emerging sector" means that sector of the construction industry which comprises emerging enterprises;
- "Executive Director" means the person appointed as Executive Director of the Council under paragraph 9 of the First Schedule;
- "foreign firm" means a firm which is registered outside Zambia and whose partners are non-Zambian or in Zambia and whose partners are non-Zambian;
- "member" means a member of the Council appointed under section *four*;

“project” means a construction works contract or a series of related construction works contracts;

“register” means the register of contractors and affiliated bodies referred to in section *nine*;

“register of projects” means the register referred to in section *fifteen*;

“School” means the Construction School constituted under section *seventeen*;

“surveyor” means—

(a) a surveyor registered under the Valuation Surveyors Act; Cap. 207

(b) a land surveyor licenced under the Land Survey Act; and Cap. 188

(c) a quantity surveyor registered under the Quantity Surveyors Act;” Cap. 438

“technical staff” includes road fore persons, road supervisors and road superintendents;

“Vice-Chairperson” means the person elected Vice-Chairperson of the Council under section *four*;

“Zambian company” means a company which is registered under the Companies Act and is controlled from within Zambia and in which fifty-one per centum or more of the shares are owned by a Zambian; and Cap. 388

“Zambian firm” means a firm which is registered in Zambia and whose partners are Zambians.

PART II

THE NATIONAL COUNCIL FOR CONSTRUCTION

3. (1) There is hereby established the National Council for Construction which shall be a body corporate having perpetual succession and a common seal, capable of suing and being sued in its corporate name and with power, subject to this Act, to do all such acts and things as a body corporate may, by law, do or perform.

Establishment
of Council

(2) The provisions of the First Schedule shall apply to the Council.

4. (1) The Council shall consist of the following part time members appointed by the Minister:

Composition
of Council

(a) an architect nominated by the Zambia Institute of Architects;

(b) a consulting engineer nominated by the Association of Consulting Engineers of Zambia;

(c) a surveyor nominated by the Surveyors Institute of Zambia;

(d) a contractor nominated by the Association for Building and Civil Engineering Contractors;

(e) a contractor nominated by the National Association for Small-Scale Contractors;

(f) a member nominated by construction materials manufacturers and suppliers;

(g) a representative of the public universities in Zambia;

(h) a representative of the Technical Education, Vocational and Entrepreneurship Training Authority;

(i) a representative of the Zambia Bureau of Standards;

(j) a representative of the Energy Regulation Board; "

(k) a representative of the Attorney-General;

(l) the Permanent Secretary to the ministry responsible for works and supply;

(m) the Permanent Secretary to the ministry responsible for finance and national planning;

(n) the Permanent Secretary to the ministry responsible for local government and housing; and

(o) one other person.

(3) The Minister shall appoint the Chairperson and the members shall elect the Vice-Chairperson from among their number.

(4) Where a member is for any reasonable cause unable to attend any meeting of the Council, the member may, in writing, nominate another senior person from the same ministry, body or organisation to attend such meeting and such person shall be deemed to be a member for the purpose of such meeting.

Functions of
Council

5. The functions of the Council shall be to—

(a) promote and develop the construction industry in Zambia, and give priority to Zambian firms and Zambian Companies;

(b) assess the performance of contractors in the execution of contracts and thus provide a performance record for contractors;

(c) regulate the behaviour and promote minimum standards and best practice of contractors;

(d) provide data on the size and distribution of contractors operating within the industry;

(e) facilitate, where possible, access by Zambian firms or Zambian Companies to resources for the development of their operations;

(f) promote, in liaison with other bodies in construction related fields, development issues relating to the construction industry;

- (g) promote research into construction and the development and use of local materials and appropriate construction materials;
 - (h) in consultation with the National Housing Authority, the Director in the Buildings Department and other bodies, promote the construction of affordable low cost and medium density housing;
 - (i) set and promote safety standards in the construction industry;
 - (j) prescribe and vary the categories for the registration of persons engaged in the construction industry;
 - (k) conduct training and co-ordinate the training programmes of persons engaged in the construction industry;
 - (l) make available to persons engaged in the construction industry, published information, advice and assistance in relation to the construction industry;
 - (m) monitor and evaluate, from time to time, the capacity and progress of persons engaged in the construction industry;
 - (n) promote and maintain competition among the professionals or other persons engaged in the construction industry and promote efficiency and economy on the part of the professionals and persons so engaged;
 - (o) regulate activities in the construction industry through the appropriate institutions, Boards and other authorities, as the case may be;
 - (p) co-ordinate construction related activities;
 - (q) formulate policies and programmes of the School;
 - (r) recommend to the Minister the conditions under which a foreign firm or foreign company may be registered and permitted to operate in Zambia;
 - (s) review, from time to time, the process of awarding contracts;
 - (t) standardise quality control, contract documentation, codes of practice, procurement processes, legal and contractual processes in liaison with other relevant bodies or organisations and in accordance with other written laws; and
 - (u) do all such acts or things as are connected with or incidental to the functions of the Council under this Act.
6. The Council shall have power to—
- (a) direct any contractor or person providing

Powers of
Council

services in the construction industry to deliver its services in such manner as to ensure compliance with this Act;

- (b) require any contractor or person to submit such information and records as may be necessary to enable the Council to monitor the performance of the contractor;
- (c) consider any matter affecting the construction industry and make representations thereon to the Minister;
- (d) recommend training institutions in Zambia and outside for the training of persons engaged in the construction industry;
- (e) obtain information related to the industry from any person engaged in the construction industry in Zambia;
- (f) obtain and collate information concerning any existing or proposed project and where necessary, advise persons engaged in the construction industry on the project; and
- (g) generally, to do such things as the Council may consider necessary or expedient for the performance of its functions under this Act.

PART III

REGISTRATION OF CONTRACTORS

Application
for
registration

7. (1) An application for registration as a contractor shall be made to the Council in the prescribed form and shall be accompanied by the prescribed fee.

(2) The application referred to in subsection (1) shall state—

- (a) the name of the applicant;
- (b) the principal place of business;
- (c) the qualifications and experience of the applicant;
- (d) the names and qualifications of the professional staff employed by the contractor;
- (e) the areas of construction in which the applicant is involved;
- (f) the capital and other financial resources available to the applicant;
- (g) any other details which the Minister, may on the recommendation of the Council, by statutory instrument, prescribe:

Provided that the Minister may prescribe—

(i) different requirements for the registration of different categories of contractors taking into account the emerging sector and different stages of development of contractors in the construction industry; or

(ii) different requirements for the registration of a foreign company or foreign firm.

(3) The Council shall, within sixty days of the date of receipt of an application for registration, consider the application.

(4) Where the Council is satisfied that the applicant has complied with the requirements for registration under this Act, the Council shall register the applicant and may refuse to register the applicant where the Council is not so satisfied.

(5) Upon registration the Council shall issue the applicant with a certificate of registration.

(6) Where the Council refuses to register an applicant as a contractor, the Council shall, in writing, furnish the applicant concerned with the reasons for such refusal within fourteen days of taking the decision.

(7) A certificate for registration issued under subsection (5) shall be valid for one year.

(8) A registered contractor may apply for renewal of registration three months before the expiration of the existing registration and shall pay the prescribed renewal fee.

8. A contractor registered under this Act shall not undertake construction work in a category in respect of which that person is not registered.

Contractor to
operate under
registered
category

9. (1) The Council shall keep and maintain, in the prescribed form, a register of —

Register of
contractors
and affiliated
bodies

(a) every contractor registered under this Act; and

(b) every affiliated body.

(2) The register referred to in subsection (1) shall —

(a) indicate the size and distribution of contractors operating within the construction industry;

(b) indicate the number, nature and performance of contractors and target groups; and

(c) contain such other particulars as the Council may prescribe.

(3) An affiliated body shall provide a list of its members to the Council for purposes of the register.

Cancellation
of
registration

10. (1) Subject to subsection (2), the Council may cancel the certificate of registration of any contractor if the Council is satisfied that—

- (a) the contractor has failed to pay the annual registration fee;
- (b) the certificate of registration has been obtained by fraud or mistake;
- (c) the contractor has wilfully violated any of the provisions of this Act;
- (d) the contractor has ceased to carry on business in the construction industry in Zambia;
- (e) the contractor has undertaken work in a category other than the category in respect of which the contractor is registered; or
- (f) the contractor is guilty of professional misconduct.

(2) Where the Council intends to cancel the certificate of registration under subsection (1) the Council shall, at least three months before cancelling the certificate, give notice, in writing, to the contractor of the intention to cancel the registration of such contractor.

(3) The notice referred to in subsection (2) shall state the reasons for the intended cancellation and require the contractor to show cause, within such period as the Council shall specify, why the registration should not be so cancelled.

(4) If the Council is not satisfied with the explanation given by the contractor the Council shall cancel the certificate of registration and notify the contractor accordingly.

Appeal
against
refusal to
register
contractor or
cancellation
of
registration

11. (1) Any person aggrieved by any refusal of the Council to register that person as a contractor or by the cancellation, of a certificate of registration may appeal to the Minister not later than thirty days after the notification of such refusal or cancellation, as the case may be.

(2) Where an appeal is made under subsection (1), the Minister may give such directions to the Council as the Minister considers necessary to enable the Minister to determine the appeal.

(3) The Minister in determining the appeal may confirm, vary or set aside the decision of the Council.

(4) Any person who is aggrieved by the decision of the Minister may appeal to the High Court within thirty days of the Minister's decision.

12. (1) The professional bodies which regulate the following professions shall be affiliated to the Council:

Affiliation to Council of professional bodies

- (a) architects;
- (b) engineers; and
- (c) surveyors.

(2) An affiliated body referred to in subsection (1) shall pay such affiliation fees and other fees as the Minister may, on the advice of the Council, by statutory instrument, prescribe.

13. The Council shall at regular intervals, but not less than once in every year, cause to be published in the *Gazette* a list of all contractors registered under this Part.

Publication of list of registered contractors

14. (1) Every registered contractor shall on or before the fourteenth day of January each year, pay such annual registration fee as the Council may determine.

Annual registration fee

(2) The Council shall, on the payment of an annual registration fee under subsection (1), issue a certificate of registration to the paid up contractor.

PART IV REGISTER OF PROJECTS

15. (1) The Council shall establish a register of projects to gather information on the nature, value and distribution of projects and provide the basis for a best practice project assessment scheme provided for under this Act.

Register of projects

(2) The Minister may, in consultation with the Council, prescribe the requirements for the registration of projects taking into account the emerging sector and the different sizes and characteristics of projects in the construction industry.

(3) All construction contracts above a tender value, prescribed by the Minister upon the recommendation of the Council, shall be recorded in the register of projects.

(4) The Minister, on the recommendation of the Council, may prescribe a fee to be paid to the Council for the registration of a project by persons undertaking construction works.

Best practice
project
assessment
scheme and
best practice
contractor
recognition
scheme

16. (1) The Council shall establish a best practice project assessment scheme based on best practices identified by the Council.

(2) After a date determined by the Minister by *Gazette* all construction contracts above a prescribed tender value shall be subject to an assessment of compliance with best practice standards and guidelines published by the Council in the *Gazette*.

(3) Every client who engages in the best practice project assessment scheme shall pay to the Council such fee as may be prescribed by the Minister, on the advice of the Council.

(4) The Council shall establish a best practice contractor recognition scheme which shall—

(a) enable the Government to manage risk on complex contracting strategies; and

(b) promote the development of contractors in relation to best practice standards and guidelines developed by the Council.

PART V

CONSTRUCTION SCHOOL

Establish-
ment of
Construction
School

17. (1) There is hereby established the Construction School which shall—

(a) conduct training for technical staff in construction and construction related subjects;

(b) provide courses in labour based technology;

(c) provide courses or training skills for personnel in the construction industry;

(d) offer courses in research and consultancy for persons in the field of construction; and

(e) provide for and offer such other capacity building programmes as the Council may consider necessary.

Principal and
other staff

18. (1) The Council shall appoint a Principal for the School who, subject to the direction of the Executive Director, shall be responsible for the day to day administration of the School.

(2) The Council may appoint, on such terms and conditions as it may, with the approval of the Minister determine, such other staff as the Council may consider necessary for the operations of the School.

19. (1) Subject to the control of the Council the functions of the Principal shall be to —

Functions of
Principal

- (a) organise and direct the academic work of the School in teaching, research and consultancy;
- (b) control the standards of training, both technical and non technical;
- (c) advise the Council on the provision of facilities to carry out the policies and objectives of the School;
- (d) direct and regulate the programmes of instruction and courses offered in the School;
- (e) monitor the performance of students admitted to the School and determine whether the students shall continue or discontinue studies or training;
- (f) subject to the approval of the Council, make rules with regard to examinations and standards to be attained in such examinations and appoint examiners;
- (g) promote, co-ordinate and control research on local building materials, appropriate construction materials and other matters relevant to the construction industry in the School;
- (h) recommend to the Council scholarships and prizes to be awarded by the School;
- (i) in consultation with the Road Development Agency and other stakeholders, approve and review academic programmes;
- (j) make recommendations on Departments that may be constituted within the School, if necessary;
- (k) make recommendations to the Council in respect of conditions for sponsorship of persons to study construction related subjects at recognised establishments; and
- (l) with the approval of the Executive Director, consider and report to the Council on any matter relating to the School.

20. The Council shall —

Functions of
Council
in relation
to School

- (a) set minimum educational and, other qualifications or requirements for persons seeking enrolment as students of the School;
- (b) enrol students of the School and keep a register of all such enrolled students;
- (c) determine fees to be paid by any member of an affiliated body or other person in respect of courses, workshops, seminars or examinations set by the Council;

- (d) set and establish courses of study or syllabi as it considers necessary;
- (e) confer certificates on persons who are successful candidates in the examinations conducted by the Council or upon participation in workshops or seminars offered at, by, or under the auspices of the School;
- (f) provide high quality training, research and consultancy in construction;
- (g) develop the capacity of the School in teaching, research and consultancy related to construction;
- (h) provide high quality training in research, consultancy and management for persons engaged in construction or related fields;
- (i) improve the quality and standard of construction management as a means of encouraging productivity and efficiency;
- (j) improve the capacity of persons engaged in construction;
- (k) make rules, in consultation with the Principal, for the regulation of the affairs of the students of the School;
- (l) in consultation with the Principal set out guidelines for generating and investing funds for the sustainable operation of the School; and
- (m) do all such other things as are incidental to the attainment of the functions of the Council.

PART VI

GENERAL PROVISIONS

Offences
and
penalties

21. (1) A contractor shall not undertake, carry out or complete any construction works or portion of such works for a public sector contract, awarded in terms of competitive tender or quotation, unless the contractor is registered with the Council and holds a valid certificate issued by the Council.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(3) An employee of a contractor registered under the Act shall not be deemed to carry on business within the meaning of this section by reason only of the performance of that person's functions as an employee.

(4) Any contractor who carries out or attempts to carry out any construction works or portion of such works under a public sector contract and who is not a registered contractor or after being notified in writing that the certificate of registration has been cancelled commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(5) In this section, "public sector contract" means a contract in respect of construction works for the Government, a parastatal or a statutory body.

22. (1) A person shall not award a contract for any construction works of such value as the Minister may, by statutory instrument, upon the recommendation of the Council, determine to another person unless that other person is registered under this Act.

Prohibition in respect of award of tender unless registered

(2) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

23. (1) A person shall not award a contract for construction works to a foreign company or foreign firm without the approval of the Council.

Award of contract to foreign company or foreign firm

(2) Where an award for a contract is referred to the Council for approval and the Council determines that the construction work to be awarded can be undertaken by a Zambian company or Zambian firm the Council shall not endorse its approval and the person shall not award the contract to the foreign company or foreign firm.

(3) A person who contravenes subsection (1) or (2) commits an offence and shall be liable, on conviction, to a penalty not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

24. (1) Subject to section *sixteen* a person shall not award a contract for any construction works to a foreign company or foreign firm unless the foreign company or foreign firm undertakes the construction works in partnership or jointly with a Zambian company or Zambian firm.

Partnership with Zambian company or Zambian firm

(2) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Prohibition
of use of
substandard
construction
materials

Cap. 416

25. (1) A contractor shall not use—
(a) construction materials; or
(b) other materials used in the construction industry or construction related activities that do not conform to the standards set under the Standards Act or that are of a substandard quality.

(2) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Manufacture
or sale
of
substandard
construction
materials

Cap. 416

26. (1) A person shall not manufacture or sell—
(a) construction materials; or
(b) other materials used in the construction industry or construction related activities that do not conform to the standards set under the Standards Act or that are of a substandard quality.

(2) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Regulations

27. (1) The Minister may, on the recommendation of the Council, make regulations for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1) the regulations made under that subsection may provide for—

- (a) the registration of contractors or other persons engaged in construction or construction related activities; and the information to be supplied to the Council in connection with applications for registration;
- (b) the registration of an affiliated body;
- (c) the fees payable under the Act;
- (d) the exemption of any person or institution from any of the provisions of this Act;
- (e) a code of conduct and penalties in respect of professional misconduct or other offences committed through a breach of the code of conduct;
- (f) the Forms required under this Act;
- (g) the safety requirements on construction sites;
- (h) the safety apparel to be worn by persons on construction sites;

(i) prescribing the procedure to be adopted and the conditions to be observed in connection with the approval of international qualifications and certificates, degrees and diplomas obtained both inside and outside Zambia; and

(k) such other things as are incidental to the attainment of the functions of the Council.

28. The savings and transitional provisions shall be as set out in the Second Schedule.

Savings and
transitional
provisions

FIRST SCHEDULE

(Section 3)

PART I

ADMINISTRATION OF COUNCIL

1. (1) The seal of the Council shall be such device as may be determined by the Council and shall be kept by the Secretary.

Seal of
Council

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice Chairperson and the Secretary or one other person authorised in that behalf by a resolution of the Council.

(3) Any document purporting to be a document executed under the seal of the Council or issued on behalf of the Council shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

2. (1) A member shall hold office for a period of three years and may be re-appointed for a further term of three years.

Tenure of
office

(2) Any member, may resign upon giving one month's notice to the Ministry or organisation which that member represents and to the Council.

(3) The office of a member shall become vacant on—

(a) the death of the member;

(b) being declared to be of unsound mind;

(c) being declared a bankrupt;

(d) being convicted of an offence involving dishonesty;

(e) being sentenced to imprisonment for a period exceeding six months;

(f) resignation under subparagraph (2);

(g) the member ceasing to hold the office by virtue of which the member was appointed to the Council;

(h) being absent without reasonable cause from three consecutive meetings of the Council of which the member has had

notice; and

(i) the member failing to disclose an interest under paragraph 5.

(4) If the office of a member falls vacant, a new member may be appointed, but that member shall hold office only for the unexpired part of the term.

Proceedings
of Council

3. (1) Subject to the other provisions of this Act, the Council may regulate its own procedure.

(2) The Council shall meet for the transaction of its business at least once in every three months at such places and times as the Chairperson may determine, but the first meeting of the Council shall be called by the Minister not later than one month after the commencement of this Act.

(3) Upon giving notice of not less than fourteen days, a meeting of the Council may be called by the Chairperson, and shall be called if not less than seven members so request in writing:

Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.

(4) eight members shall form a quorum at any meeting of the Council.

(5) There shall preside at any meeting of the Council—

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson; or

(c) in the absence of both the Chairperson and Vice-Chairperson, such member as the members present shall elect for the purpose of that meeting.

(6) A decision of the Council on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to the deliberative vote.

(7) The Council may invite any person whose presence is in its opinion, desirable to attend and participate in the deliberations of a meeting but that person shall have no vote.

(8) The validity of any proceedings, act or decision of the Council shall not be affected by any vacancy in its membership or by any defect in the appointment of any member or because a person not entitled to do so took part in the proceedings.

(9) The Council shall cause to be kept minutes of the proceedings of every meeting of the Council and of every meeting of any committee constituted by the Council.

4. (1) The Council may for the purpose of performing its functions under this Act constitute any committee, the chairperson of which shall be a member of the Council, and may delegate to that committee any of its functions.

Commit-
tees of
Council

(2) The Council may appoint as members of a committee established under subparagraph (1), persons who are or are not members of the Council and such persons shall hold office for such period as the Council may determine.

(3) Subject to any specific or general direction of the Council any committee established under subparagraph (1), may regulate its own procedure.

5. (1) If any person is present at a meeting of the Council or a committee at which any matter, in which that person or any member of the person's immediate family is directly or indirectly interested in a private capacity, is the subject of consideration, that person shall, as soon as practicable after the commencement of the meeting, disclose that interest and shall not, unless the Council or the committee otherwise directs, take part in any consideration or discussion of, or vote on any question relating to that matter.

Disclosure
of
interest

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

6. No action or any other proceedings shall be instituted against a member of the Council, a member of any committee of the Council or a member of staff of the Council or School for anything done in good faith in the exercise or purported exercise of the functions under this Act.

Immunity of
members and
staff

7. (1) A person shall not, without the consent in writing given by or on behalf of the Council, publish or disclose to any person otherwise than in the course of that person's duties, the contents of any document, communication or information whatsoever which relates to, and which has come to that person's knowledge in the course of, that person's duties under this Act.

Prohibition of
publication or
disclosure of
information to
unauthorised
persons

(2) A person who contravenes subparagraph (1) commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units, or to imprisonment for a term not exceeding five years, or to both.

(3) If any person having information which to that person's knowledge has been published or disclosed in contravention of subparagraph (1), unlawfully publishes or communicates any such

information to any other person, that person commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units, or to imprisonment for a term not exceeding five years, or to both.

Allowances

8. There shall be paid to a member of the Council or a committee such allowances as the Council may determine, subject to the approval of the Minister.

**Executive
Director
and other
staff**

9. (1) There shall be an Executive Director who shall be appointed by the Council, on such terms and conditions as the Council may determine, subject to the approval of the Minister.

(2) The Executive Director shall be the Chief Executive Officer of the Council and shall, subject to the control of the Council, be responsible for the day to day administration of the Council.

(3) The Council may delegate to the Executive Director such of its functions as it may consider necessary.

(4) The Executive Director shall—

(a) attend meetings of the Council and of any committee of the Council, but shall have no vote; and

(b) be the Secretary to the Council.

(5) The Council may on such terms and conditions as it may determine appoint such other staff of the Council as it considers necessary.

PART II

FINANCIAL PROVISIONS

**Funds of
Council**

10. (1) The funds of the Council shall consist of such monies as may—

(a) be appropriated by Parliament for the purposes of Council;

(b) be paid to the Council by way of fees, grants or donations; and

(c) otherwise vest in or accrue to the Council.

(2) The Council may—

(a) accept monies by way of grants or donations from any source in Zambia and, subject to the approval of the Minister, from any source outside Zambia;

(b) with the approval of the Minister, raise by way of loans or otherwise, such monies as it may require for the discharge of its functions; and

(c) charge and collect fees in respect of programmes and seminars conducted by the Council.

(3) There shall be paid from the funds of the Council—

(a) the salaries, allowances and loans of the staff of the Council;

(b) such reasonable travelling and other allowances for members or members of any committee when engaged on the business of the Council at such rates as the Council may, with the approval of the Minister, determine; and

(c) any other expenses incurred by the Council in the performance of its functions.

11. The Council may invest in such manner as it considers necessary any of its funds which it does not immediately require for the performance of its functions.

Investment
of funds

12. The financial year of the Council shall be a period of twelve months ending on 31st December in each year.

Financial
year

13. (1) The Council shall cause to be kept proper books of the accounts and other records relating to its accounts.

Accounts

(2) The accounts of the Council shall be audited annually by independent auditors appointed by the Council.

(3) The fees of the auditors shall be paid by the Council.

14. (1) As soon as is practicable, but not later than three months after the financial year, the Council shall submit to the Minister a report concerning its activities during such financial year.

Annual
report

(2) The report referred to in subparagraph (1) shall include information on the financial affairs of the Council and there shall be appended thereto—

(a) an audited balance sheet;

(b) an audited statement of income and expenditure; and

(c) such other information regarding activities undertaken during the year, as the Minister may require.

(3) The report referred to in subparagraph (2) shall specifically record the extent to which the objectives defined in the annual work plan and budget have been attained.

(4) The Minister shall, not later than thirty days after the first sitting of the National Assembly next after receipt of the report referred to in subparagraph (1), lay it before the National Assembly.

SECOND SCHEDULE

(Section 28)

PART I

SAVINGS AND TRANSITIONAL PROVISIONS

Interpretation

1. In this Schedule—

“appointed date” means such date as the Minister may appoint under section *one* or the date of expiration of the period referred to in section *one*, as the case may be;

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“former Council” means the National Council for Construction registered under the Societies Act;

“former School” means the Roads Training School in the Roads Department under the Ministry responsible for works and supply.

PART II

TRANSITIONAL PROVISIONS IN RELATION TO THE NATIONAL COUNCIL FOR
CONSTRUCTION

Professional
body
affiliated to
former
Council
before
commencement
of Act to be
affiliated
body after
commencement
of Act

2. (1) Any professional body that immediately prior to the appointed date was affiliated to the former Council shall be deemed as from the appointed date to be an affiliated body under this Act.

(2) A person who immediately before the appointed date held office as a member of the former Council, shall hold office, subject to this Act, until the Council is appointed under section *four*.

Vesting of
assets of
former
Council

3. (1) On or after the appointed date, there shall be transferred to, and vest in, or subsist against, the Council by virtue of this Act without further assurance—

(a) the affairs of the former Council; and

(b) subject to this Act all property, rights and obligations which immediately before the appointed date were the property, rights and obligations of the former Council.

(2) Except as provided in this Act, every deed, bond and agreement (other than an agreement for personal service) to which the former Council was a party immediately before the appointed date, whether in writing or not, and whether or not of such a nature that rights, liabilities and obligations thereunder could be assigned, shall, unless its subject-matter or terms make it impossible that it should have effect as modified in the manner provided by this subsection, have effect as from the date of the assignment thereof, as if—

(a) the Council had been a party thereto;

(b) for any reference to the former Council there were substituted, as respects anything falling to be done on or after the appointed date, a reference to the Council; and

(c) for any reference to an employee of the former Council not being a party thereto and beneficially interested therein there were substituted, as respects anything falling to be done on or after the appointed date, a reference to such employee of the Council as the Council shall designate.

(3) Subject to the provisions of subsection (2), documents, other than those referred to therein, which refer specifically or generally to the Council shall be construed in accordance with subparagraph (2) as far as applicable.

4. (1) Whenever in pursuance of this Act, any property, rights, liabilities and obligations of the former Council are deemed transferred to the Council in respect of which transfer a written law provides for registration, the Council shall make an application, in writing, to the appropriate authority for registration of the transfer.

Registration
of
transferred
Property

(2) The registration authority referred to in subparagraph (1) shall make such entries in the appropriate register as shall give effect to such transfer and, where applicable, issue the transferee concerned with a certificate of title in respect of the property or make necessary amendments to the register, as the case may be, and shall make endorsement on the deeds relating to the title, right or obligation concerned; and no registration fees, stamp duty or other duties shall be payable in respect thereof.

5. (1) Without prejudice to the other provisions of this Act, where any right, liability or obligation vests in the Council by virtue of this Act, the Council and all other persons shall, as from the appointed date, have the same right, powers and remedies (and in particular the same rights as to the instituting or defending of legal proceedings or the making or resisting of applications to any authority) for ascertaining,

Legal
proceedings

perfecting that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the Council.

(2) Any legal proceedings or application or any authority pending immediately before the appointed date by or against the former Council may be continued by or against the Council.

(3) After the appointed date, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the former Council may be instituted by or against the Council.

Terms of
service of
employees
of Council

6. (1) On or after appointed date, the Council shall, on such terms and conditions as it may, with the approval of the Minister, determine appoint as employees of the Council such employees of the former Council as may be necessary for the performance of the functions of the Council.

(2) Where an employee of the former Council is appointed to the service of the Council—

(a) the terms and the conditions of service with the Council shall not be less favourable than those the employee enjoyed in the service of the former Council; and

(b) the employee shall be deemed to—

(i) have retired under the terms and conditions of the service of the former Council; or

(ii) continue service and the term served in the employment of the former Council shall be deemed to be service under the Council.

(3) On or after the appointed date employees of the Council who are not engaged by the Council under subparagraph (2) shall be retired under the terms and conditions of service of the former Council.

PART III

TRANSITIONAL PROVISIONS IN RELATION TO THE ROADS TRAINING SCHOOL

Vesting of
assets of
Roads
Training
School

7. (1) On or after the appointed date, there shall be transferred to, and vest in, or subsist against, the Council by virtue of this Act and without further assurance—

(a) the affairs of the former School; and

(b) subject to this Act, all property, rights and obligations which immediately before the appointed date were the property, rights and obligations of the former School.

(2) Except as provided in this Act, every deed, bond and agreement (other than an agreement for personal service) to which the Government was a party immediately before the appointed date in respect of the former School, whether in writing or not, and whether or not of such a nature that rights, liabilities and obligations thereunder could be assigned, shall, unless its subject-matter or terms make it impossible that it should have effect as modified in the manner provided by this subparagraph, have effect as from the date of assignment thereof, as if—

- (a) the Council had been a party thereto;
- (b) for any reference to the Government there were substituted, as respects anything falling to be done on or after the appointed date, a reference to the Council; and
- (c) for any reference to an employee of the Government not being a party thereto and beneficially interested therein there were substituted, as respects anything falling to be done on or after the appointed date, a reference to such employee of the Council as the Council shall designate.

(3) Subject to the provisions of subparagraph (2), documents, other than those referred to therein, which refer specifically or generally to the former School shall be construed in accordance with subparagraph (2) as far as applicable.

8. (1) Whenever in pursuance of this Act, any property, rights, liabilities and obligations of the Government through the former School are deemed transferred to the Council in respect of which transfer a written law provides for registration, the Council shall make an application, in writing, to the appropriate authority for registration of the transfer.

Registration
of property
transferred
to Council
from
Government

(2) The registration authority referred to in subparagraph (1) shall make such entries in the appropriate register as shall give effect to such transfer and, where applicable, issue the transferee concerned with a certificate of title in respect of the property or make necessary amendments to the register, as the case may be, and shall make endorsement on the deeds relating to the title, right or obligation concerned; and no registration fees, stamp duty or other duties shall be payable in respect thereof.

9. (1) Without prejudice to the other provisions of this Act, where any right, liability or obligation vests in the Council by virtue of this Act, the Council and all other persons shall, as from the appointed date, have the same rights, powers and remedies (and in particular the

Legal
proceedings

same rights as to the instituting or defending of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the Council.

(2) Any legal proceedings or application or any authority pending immediately before the appointed date by or against the Government in respect of the former School may be continued by or against the Council.

(3) After the appointed date, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the Government in respect of the former School may be instituted by or against the Council.

Terms of
service
of
employees
of former
School

10. (1) On or after the appointed date, the Council shall, on such terms and conditions as it may, with the approval of the Minister determine, appoint as employees of the Council for the purposes of the School such public officers from the Public Service as may be necessary for the performance of the functions of the Council in relation to the School.

(2) Where an officer from the Public Service is appointed to the service of the Council—

(a) the terms and the conditions of service with the Council shall not be less favourable than those the officer enjoyed in the Public Service; and

(b) the officer shall be deemed to have retired under section *thirty-nine* of the Public Service Pensions Act.

Act No. 35
of 1996

(3) On or after the appointed date employees of the Government in the former School who are not engaged by the Council under subsection (2) shall be retained by the Government and shall—

(a) be redeployed in the service of the Government; or

(b) be retired under section *thirty-nine* of the Public Service Pensions Act.

Act No. 35
of 1996