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PHYSICAL PLANNERS REGISTRATION ACT

NO. 3 OF 1996

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PHYSICAL PLANNERS REGISTRATION ACT

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NO. 3 OF 1996

PHYSICAL PLANNERS REGISTRATION ACT

[Date of assent: 9th July, 1996.]

[Date of commencement: 29th April, 1997.]

An Act of Parliament to provide for the registration of physical planners and for purposes connected therewith

[Act No. 3 of 1996, L.N. 81/1997.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Physical Planners Registration Act, 1996.

2. Interpretation

In this Act, unless the context otherwise requires—

“**Board**” means the Physical Planners Registration Board established by section 3;

“**Minister**” means the Minister for the time being responsible for Physical Planning;

“**register**” means the register of physical planners kept in accordance with section 6;

“**registered physical planner**” means a person whose name is for the time being entered in the register as a registered physical planner under section 7;

“**Registrar**” means the Registrar of the Board appointed under section 5.

PART II – ESTABLISHMENT OF THE PHYSICAL PLANNERS REGISTRATION BOARD

3. Establishment and functions of the Board

(1) There is hereby established a Board, to be known as the Physical Planners Registration Board which shall be responsible for regulating the activities and conduct of physical planners registered in accordance with the provisions of this Act.

(2) The Board shall—

- (a) be a body corporate with perpetual succession and a common seal;
- (b) be capable of suing and being sued in its corporate name;
- (c) be capable, for and in connection with the carrying out of the purposes of this Act, of acquiring, holding and disposing of movable and immovable property.

(3) The provisions of the Schedule shall apply to the constitution, meetings and other matters provided for in that Schedule.

(4) The Board shall—

- (a) register all eligible persons to practise as physical planners in accordance with the provisions of this Act;

- (b) set and conduct examinations for purposes of registration of members;
- (c) verify the qualifications and eligibility of the applications seeking registration with the Board; and
- (d) enquire into the professional misconduct of a member and institute disciplinary proceedings against such member in accordance with the provisions of this Act.

4. Limitation of liability of members of the Board

No member of the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of carrying out the functions of, or exercising the powers conferred upon the Board under this Act.

PART III – THE REGISTRAR AND THE REGISTER OF PHYSICAL PLANNERS

5. Appointment of Registrar

The Minister shall appoint a public officer as the Registrar of the Board who shall hold and vacate his office in accordance with the terms of his appointment.

6. Register of Physical Planners

(1) The Registrar shall keep and maintain a register in which the name of every person eligible to have his name entered therein shall be entered if he is accepted by the Board for registration under this Act and showing against his name—

- (a) the date of the entry in the register;
- (b) his address;
- (c) his qualifications; and
- (d) such other particulars as the Board may from time to time direct.

(2) All changes in the particulars recorded under subsection (1) shall be entered in the register by the Registrar.

7. Certificate of registration

(1) Where the name of a person has been entered in the register, the Registrar shall issue a certificate of registration in the prescribed form to that person but the certificate shall remain the property of the Board.

(2) Where the name of a person has been removed from the register, the Board shall give notice to that person by registered post, or if he is dead to his legal personal representative, requiring the certificate of registration to be surrendered to the Board.

(3) A person who fails to comply with the requirements of a notice given under subsection (2) within twenty-one days after the receipt by him of the notice shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings or to imprisonment not exceeding twelve months or to both.

(4) A certificate of registration issued by the Registrar shall be valid for one year, and shall be renewable on the payment of the prescribed fee but where the prescribed fee has been paid in advance of the renewal date and there is no order that the name of the holder of the certificate be removed from the register, the certificate shall remain in force until it again becomes due for renewal.

(5) If a certificate of registration is lost or destroyed and the loss or destruction is proved to the satisfaction of the Board, the Registrar shall issue a duplicate of

the certificate to the registered physical planner concerned on payment of the prescribed fee.

8. Publication of register and list

(1) The Registrar shall cause to be published in the *Gazette*, as soon as may be practicable after entry in the register, the name, address and qualification of each registered physical planner and, subject to the directions of the Board, he may cause to be so published any amendments to the register.

(2) The Registrar shall cause to be published in the *Gazette* at the beginning of each year a notice of the names, addresses and qualifications of all registered physical planners, entered in the register.

9. Publication *prima facie* evidence of registration

A notice published under section 8 shall be *prima facie* evidence that the persons named therein are registered physical planners and the deletion from the register of the name of any person from a notice, shall be *prima facie* evidence that the person is not registered.

10. Inspection of register

Any person may, during normal office hours and on payment of the prescribed fee, inspect the register or any document or entry in the register and may obtain from the Registrar a copy of, or an extract from, the register or any such document.

11. Proof of documents

(1) In any legal proceedings a document purporting to be a copy of, or an extract from, the register or any document kept or published by the Registrar which is certified by the Registrar to be a true copy or extract shall be admissible as *prima facie* evidence of the contents of the register or document.

(2) The Registrar shall not, in any legal proceedings to which he is not a party, be compelled—

- (a) to produce the register or any document if its contents can be proved under subsection (1); or
- (b) to appear as witness to prove an entry in the register or the matters recorded in the register or any document, unless the court for special cause so orders.

12. Conditions and qualifications for registration

(1) Subject to this Act, a person shall be entitled, on making an application to the Board in the prescribed form and on the payment of the prescribed fee, to be registered and to have his name entered in the register if—

- (a) he is the holder of a bachelor's or postgraduate degree in urban or regional planning or both from any university which is recognized for the time being by the Board and has passed an examination prescribed by the Board;
- (b) he has been admitted as a corporate member of an approved professional institution whose qualifications for such admission are not less than those prescribed in paragraph (a); or
- (c) if before the commencement of this Act he is a corporate member of the Architectural Association of Kenya (Town Planning Chapter).

(2) A person shall not be eligible to take the examinations prescribed by the Board unless he has had two years post qualification practical experience in physical planning.

(3) Notwithstanding the fact that an applicant is qualified in terms of subsection (1), the Board may require the applicant to satisfy the Board that his professional and general conduct has been such that, in the opinion of the Board, he is a fit and proper person to be registered under this Act and the Board may direct the Registrar to postpone the registration of the applicant until it is so satisfied.

13. Acceptance for registration

(1) An application made to the Board under section 12 shall be considered by the Board and if it is satisfied that the applicant is so qualified it shall accept the applicant for registration.

(2) When the Board has accepted an applicant for registration it shall direct the Registrar to enter the name of the applicant in the register.

(3) The consideration of an application under this section shall be done by the Board and shall not be delegated to any committee of the Board.

14. Registration in exceptional circumstances

(1) Where a person satisfies the Board—

- (a) that he is qualified under section 12;
- (b) that he is not ordinarily resident in Kenya; and
- (c) that he is or intends to be resident in Kenya and engage in practice as a physical planner for the specific work for which he has been engaged,

the Board may direct the Registrar to register that person either for a period not exceeding one year or for the period of the duration of the specific work which he has been engaged to do.

(2) An application for registration under this section shall be made in the prescribed form accompanied by the prescribed fee and a documentary evidence of the applicant's work or employment immediately prior to his coming to Kenya and the Board may require him to appear before it for the purposes of considering his application.

15. Removal of names from register

(1) The Board may, when satisfied that a registered physical planner has—

- (a) died; or
- (b) failed to pay the prescribed fee; or
- (c) failed, within a period of six months from the date of an inquiry sent by the Registrar by prepaid registered letter to the address appearing in the register against his name, to notify the Registrar of his current address; or
- (d) requested his name to be removed from the register; or
- (e) had his name entered in the register by mistake or by reason of any false or misleading information; or
- (f) had his qualification under section 12 withdrawn or cancelled by the body through which it was acquired or by which it was awarded; or
- (g) been adjudged bankrupt; or

Physical Planners Registration

- (h) been found by the Board to be guilty of an act or omission prejudicial to the public interest or misconduct under section 23; or
- (i) been convicted of an offence under this Act; or
- (j) being a company, been placed under receivership or in liquidation whether compulsorily or voluntarily,

direct that the name of such registered physical planner be removed from the register.

(2) Except in the circumstances specified in subsection (1)(a) a registered physical planner whose name is removed from the register shall be informed in writing by the Registrar of the removal of his name by a registered letter sent to the address appearing against his name in the register.

(3) The Registrar shall cause to be published in the *Gazette* as soon as practicable, the name, address and qualifications of a person whose name is removed from the register under this section.

16. Restoration of names on register

(1) Where the name of a registered physical planner has been removed from the register under section 15 or section 17(c) his name shall not again be entered on the register unless the Board otherwise directs.

(2) Where the name of a registered physical planner has been removed from the register or his registration has been suspended under section 17(b) the Board may, either of its own motion or on the application of any person made in the prescribed form and in either case after holding such inquiry as the Board considers necessary, direct that—

- (a) the removal from the register be confirmed; or
- (b) the name of that physical planner be restored on the register; or
- (c) the suspension of the registration of that physical planner be terminated.

(3) A direction given by the Board under subsection (2) may include the date upon which restoration on the register or the termination of a suspension of the registration shall take effect and for the payment by the physical planner concerned of such fee, not exceeding the fee payable in respect of an application for registration as the Board may prescribe.

17. Suspension of registration, etc.

If a registered physical planner is convicted of an offence under this Act or is, after due inquiry held by the Board, found to have been guilty of an act or omission amounting to professional misconduct or activities prejudicial to the public interest the Board may—

- (a) caution or censure the registered physical planner; or
- (b) direct that his registration is suspended for such period as the Board may specify; or
- (c) direct that his name be removed from the register; or
- (d) impose on the registered physical planner a penalty not exceeding ten thousand shillings.

18. Procedure at inquiry

(1) A registered physical planner who is the subject of an inquiry held under this Act may appear at the hearing in person or by an advocate representing him.

(2) For the purpose of proceedings at an inquiry held by it, the Board shall have power—

- (a) to administer oaths;
- (b) to summon persons to attend and give evidence; and
- (c) to order the production of documents.

(3) Any summons or order issued under the hand of the chairman or the vice-chairman shall be deemed to have been issued by the Board.

(4) The chairman, or in his absence the vice-chairman, shall record or cause to be recorded a summary of any oral evidence given at an inquiry held by the Board.

(5) Subject to this section and to any regulations made under section 25, the Board shall have power to regulate its own procedure.

(6) For the purposes of an inquiry held under this Act the Board shall, not less than twenty-one days prior to the date of the inquiry, notify by registered letter all the persons concerned.

(7) If a person upon whom a summons or an order issued under subsection (2) has been served—

- (a) refuses or neglects without sufficient cause to attend at the inquiry; or
- (b) refuses without sufficient cause to answer fully and satisfactorily to the best of his knowledge and belief all questions put to him by or with the concurrence of the Board; or
- (c) refuses or omits without sufficient cause to produce any document in his possession or under his control which is specified in the summons or order,

he shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding three months or to both.

19. Appeals against refusal to register, etc.

Any person aggrieved by a decision of the Board—

- (a) refusing to register his name;
- (b) removing his name from the register; or
- (c) suspending his registration; or
- (d) refusing to restore his name on the register,

may, within sixty days after he has received the written decision of the Board, appeal to the High Court against the decision of the Board and in the case of such appeal—

- (i) the appeal shall be treated as an appeal to the High Court from a subordinate court exercising civil jurisdiction;
- (ii) the High Court may give directions as it deems fit; and
- (iii) the decision of the High Court shall be final.

PART IV – MISCELLANEOUS

20. Effect of registration

(1) A person whose name has been entered in the register shall so long as his name remains on the register, be entitled to adopt and use the title “Registered Physical Planner” or such contraction thereof as the Board may approve.

(2) Any person who adopts or uses the title “Registered Physical Planner” or practices or holds himself out as a registered physical planner in contravention of subsection (1) shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings or to imprisonment not exceeding twelve months or to both.

21. Unregistered persons not to practise as physical planners

(1) After the expiration for six months from the commencement of this Act or such further period as the Minister may, by notice in the *Gazette*, allow either generally or in respect of any particular person or class of persons—

- (a) no individual shall carry on business as a registered physical planner unless he is a registered physical planner under this Act;
- (b) no partnership shall carry on business as registered physical planners unless all the partners whose occupation involves the preparation of plans in respect of land under the Physical Planning Act (Cap. 286) and are registered physical planners;
- (c) no body corporate shall carry on business as registered physical planner unless the directors thereof whose occupation involves the preparation of plans in respect of land under the Physical Planning Act (Cap. 286) and are registered physical planners.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

22. Carrying on practice for purposes of winding up, etc.

Notwithstanding any other provisions of this Act, where a person ceases to carry on business as a registered physical planner by reason of his death or insolvency, or by reason of having been adjudged to be of unsound mind, the business may be carried on for the purposes of winding up or being disposed of by a registered physical planner appointed in that behalf by the person for the time being authorized by law to deal with the administration of the property of such person for a period not exceeding twelve months from the date of the death or commencement of the disability.

23. Dishonest practices

Any person who—

- (a) fraudulently makes, or causes or permits to be made any false or incorrect entry in the register or any copy thereof; or
- (b) fraudulently procures or attempts to procure the entry in the register of any name or other particulars whether on his own behalf or on behalf of any other person; or
- (c) knowingly and wilfully makes any statement, oral or written, which is false in any material particular or which is misleading with a view to

gaining any advantage or privilege under this Act whether for himself or for any other person,

shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings or to imprisonment not exceeding six months or to both.

24. Finance

The Minister may, with the consent of the Treasury, out of moneys provided by Parliament—

- (a) make to the Board such grants as may be necessary to enable it to discharge its functions under this Act;
- (b) pay remuneration and travelling and other allowances to the members of the Board other than members who are public officers in receipt of a salary;
- (c) make such other payments as may be necessary for the better carrying into effect of the provisions of this Act.

25. Regulations

The Minister may, after consultation with the Board, make regulations generally for the better carrying out of the purposes of this Act and without prejudice to the generality of the foregoing, any such regulations may—

- (a) provide for the conduct of the business of the Board and the procedure to be followed by the Board at any inquiry under this Act;
- (b) provide for the appointment by the Board from amongst its members of sub-committees and the co-option of persons thereto;
- (c) provide for the appointment and duties of officers of the Board;
- (d) provide for the definition of professional misconduct and activities prejudicial to the public interest;
- (e) prescribe the procedure to be followed by persons applying for registration;
- (f) prescribe the fees to be charged under, and the forms to be used for the purposes of this Act;
- (g) prescribe the changes which may be made for services rendered by way of practice as registered physical planners; and
- (h) prescribe anything which under this Act may be prescribed.

SCHEDULE

[Section 3(3).]

1. Membership of the Board

The Board shall consist of nine members appointed by the Minister as follows—

- (a) a chairman who shall be a public officer and member of the Architectural Association of Kenya (Town Planning Chapter);
- (b) two persons who shall be public officers and members of the Architectural Association of Kenya (Town Planning Chapter);
- (c) one person who is a member of the Architectural Association of Kenya (Town Planning Chapter) and is in the service of a local authority;

- (d) four persons who are members of the Architectural Association of Kenya (Town Planning Chapter) appointed from among persons engaged in private practice as registered physical planners who are recommended by the Association.
- (e) one member of the teaching staff of the Department of Physical Planning in the University of Nairobi who is a member of the Architectural Association of Kenya (Town Planning Chapter).

2. Tenure of office

- (1) The office of a member appointed under paragraph 1 shall become vacant—
 - (a) if he ceases for any reason to be a member of the Architectural Association of Kenya (Town Planning Chapter); or
 - (b) if he resigns his office by written notice addressed to the Minister; or
 - (c) at the end of three years from the date of his appointment.
- (2) Any casual vacancy shall be filled by the Minister by appointment as it arises.
- (3) A retiring member shall be eligible for reappointment for another period of three years.

3. Chairman and vice-chairman

- (1) The Board shall elect one of its members to be the vice-chairman of the Board.
- (2) The chairman and vice-chairman shall hold office for a period of three years from the date of nomination or election unless they cease to be members of the Board before the expiration of that period.

4. Meetings of the Board

- (1) The chairman of the Board shall convene an ordinary meeting of the Board whenever he deems it necessary or expedient, but not less frequently than once in every three months, for the transaction of the Board's business and shall appoint a suitable time, place and date for holding the meeting.
- (2) The chairman of the Board may at any time on his own initiative, convene a special meeting of the Board or shall convene a special meeting of the Board within twenty days after he has received a written request to do so signed by not less than three members of the Board.

5. Quorum at meeting of the Board

- (1) The chairman or vice-chairman and five other members of the Board shall constitute a quorum at any meeting of the Board.
- (2) All matters for consideration by the Board or acts to be done by the Board shall be decided by a resolution at a meeting of the Board at which a quorum is present.
- (3) A decision of the majority of members present and voting at a meeting of the Board shall be deemed to be a decision of the Board.
- (4) Every member of the Board shall have one vote, and in the event of an equality of votes, the person presiding shall have a second or casting vote in addition to his deliberative vote.

(5) Notwithstanding subparagraph (2) where the chairman so directs, a decision may be made by the Board without the Board meeting by circulation of the relevant papers among all the members and requiring each member to express his views in writing, but a member may require that a decision shall be deferred for consideration at a meeting of the Board and in such a case no decision shall be made until there has been a meeting of the Board.

(6) The validity of any proceedings of the Board shall not be affected by any vacancy among the membership or by any defect in the appointment of a member.

6. Minutes of meetings and appointment of secretary

(1) Minutes in proper form of each meeting of the Board shall be kept, and shall be confirmed by the Board at the next meeting and signed by the person presiding at the meeting.

(2) The Registrar shall be the Secretary to the Board and shall attend and keep minutes of the meetings of the Board and perform such other duties as the Board may require.

7. Procedure

Subject to this Schedule and to any regulations made under section 25 the Board may regulate its own procedure.

8. The seal of the Board

The seal of the Board shall not be affixed to any instrument except in the presence of the chairman or the vice-chairman and one other member of the Board.
