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THE PROFESSIONAL ENGINEERING REGULATORY COUNCIL ACT, 2021

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Schedule

No.



2021

Sierra Leone

A BILL ENTITLED

**The Professional Engineering Regulatory Council
Act, 2021.**

Short title.

Being an Act to make provision for the establishment of the Professional Engineering Regulatory Council with responsibility to regulate the practice of engineering in Sierra Leone, including the registration and discipline of professional engineers and to provide for other related matters.

[

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Date of commencement.

ENACTED by the President and Members of Parliament in this present Parliament assembled.

PART I—PRELIMINARY

Interpretation.

1. In this Act, unless the context otherwise requires -

"certificate" includes certificate of registration, practising certificate and temporary practising certificate;

"Chairman" means the Chairman of the Council appointed under subsection (2) of section 3;

"Council" means the Professional Engineering Regulatory Council established under section 2;

"Disciplinary Committee" means the Disciplinary Committee appointed by the Council for the purpose of holding inquiry into the conduct of professional engineers under section 25;

"Executive Secretary" means the Executive Secretary of the Council appointed under section 11;

"Minister" means the Minister for the time being responsible for matters relating to works and public Assets and "Ministry" shall be construed accordingly;

"Multi-storied" means a building with 3 or more storeys;

"Register" means a register of professional engineers established and maintained under section 23;

"registered professional engineer" means a professional engineer registered under section (2) of section 22;

"Sierra Leone Institution of Engineers" means the Sierra Leone Institution of Engineers incorporated as a Company Limited by Guarantee under the Companies Act, 2009;

"Sierra Leone Chamber of Commerce" means the Sierra Leone Chamber of Commerce registered under the Companies Act, 2009 (Act No. 5 of 2009);

"Tertiary Education Commission" means the Tertiary Education Commission established under section 2 of the Tertiary Education Commission Act, 2001 (Act No. 8 of 2001).

PART II—THE PROFESSIONAL ENGINEERING REGULATORY COUNCIL

2. (1) There is hereby established a body to be known as the Professional Engineering Regulatory Council. Establishment of Council.

(2) The Council shall be a body corporate having perpetual succession and capable of acquiring, holding and disposing of property, whether movable or immovable, and of suing and being sued in its corporate name and, subject to this Act, of performing all such acts as bodies corporate may by law perform.

(3) The Council shall have a common seal, the use of which shall be authenticated by the signature of -

- (a) the Chairman or other member of the Council authorised either generally or specially by the Council on their behalf; and
- (b) some other person authorised by the Council on their behalf.

(4) The common seal of the Council shall not be affixed to a document or instrument except-

- (a) by order of the Council; and

- (b) in the presence of 2 members of the Council, including one registered professional engineer not less than 15 years standing nominated by the Minister, who shall sign the document or instrument independently of the signature of a person who may have signed it as a witness.

Membership
of Council.

3. (1) The Council shall consist of the following members;

- (a) one registered professional engineer of not less than 15 years standing nominated by Ministry of Works and Public Assets;
- (b) one registered professional engineer of not less than 15 years standing nominated by the Ministry of Transport and Aviation;
- (c) one registered professional engineer, not less than 15 years standing, nominated by the Ministry of Energy;
- (d) one registered professional engineer, not less than 15 years standing, nominated by the Ministry of Water Resources;
- (e) a registered professional engineers, not less than 15 years standing, nominated by the Ministry of Information and Communication;
- (f) 5 registered professional engineers-
 - (i) 2 of whom shall be of no less than 15 years standing; and
 - (ii) 3 of whom shall be of no less than 10 years standing, nominated by the Sierra Leone Institution of Engineers;

- (g) one registered professional engineer with no less than 15 years standing nominated by the Sierra Leone Chamber of Commerce, representing Consulting Engineers;
- (h) one registered professional engineer with no less than 15 years standing nominated by the Sierra Leone Chamber of Mines; and
- (i) 1 registered professional engineer with no less than 15 years standing nominated from the contractors register.

(2) The Chairman shall be a registered professional engineer of not less than 15 years standing, appointed by the members of the Council from among their number.

4. (1) The Chairman shall hold office for a period of 3 years and shall be eligible for re-appointment for a further term of 3 years only. Tenure of members.

(2) A person shall cease to be a member of the Council on any of the following grounds-

- (a) for his inability to perform the functions of his office by reason of infirmity of mind or body;
- (b) for proven misconduct;
- (c) if he becomes bankrupt or insolvent;
- (d) if he is convicted and sentenced for an offence involving fraud or dishonesty;
- (e) if he fails to attend 3 consecutive meetings of the Council without reasonable cause;
- (f) if he resigns his office by written notice to the Council.

Meetings of
Council.

5. (1) The Council shall meet for the dispatch of its business at least once every 2 months and at such time as the Chairman may determine.

(2) The Chairman shall preside at every meeting of the Council and in his absence, the members present shall appoint a member from among themselves to preside at that meeting.

(3) A minimum of 5 members of the Council may, by notice in writing signed by them, request the Chairman to summon a special meeting of the Council for such purposes as may be stated in the notice.

(4) The Chairman or, in his absence, the member appointed to act in his behalf shall summon a special meeting within 3 days of his receipt of the notice referred to in subsection (3).

(5) The quorum at any meeting of the Council shall be 7.

(6) The Chairman or in his absence, the person presiding, shall have a casting vote where there is an equality of votes.

(7) A proposal circulated among all members and agreed to in writing by a two-thirds majority of all members shall be of the same force or effect as a decision made at a duly constituted meeting of the Board and shall be incorporated in the minutes of the next succeeding meeting of the Council;

Provided that, if a member requires that such proposal be placed before a meeting of the Council, this subsection shall not apply to such proposal.

(8) The Council may co-opt any person to attend and participate in its deliberations on any matter but such person shall not vote on any issue for the decision by the Council.

(9) The Council shall cause minutes of all its meetings to be taken and signed by the Chairman and kept in proper form.

(10) Subject to this Act, the Council shall regulate the procedure of its meetings.

6. (1) The Council may, for the discharge of its functions, appoint one or more committees comprising members of the Council or non-members or both to perform such functions as the Council may determine. Committees of Council.

(2) Without prejudice to the generality of subsection (1), the Council shall appoint a Disciplinary Committee for the purpose of holding inquiry into the conduct of professional engineers and institutions registered under this Act, consisting of the Chairman of the Council and such other members and performing such functions as the Council may determine.

7. (1) A member of the Council who has any interest, whether direct or indirect in any matter being considered or to be considered by the Council, shall disclose the nature of his interest to the Council and the disclosure shall be recorded in the minutes of the Council and such member shall not take part in any deliberation or decision of the Council relating to that matter. Disclosure of interest.

(2) A member of the Council who contravenes subsection (1) shall be guilty of misconduct and shall be removed from the Council.

8. (1) Action or other proceedings shall not lie or be instituted against any member of the Council in respect of any act or thing done in good faith or omitted to be done in the exercise of his functions under this Act. Immunity of members.

(2) A member of the Council shall not be personally liable for any debt or obligation of the Council.

9. (1) Where the Chairman or a member of the Council dies, resigns, is removed from office or is absent for a continuous period exceeding 3 months or is by reason of illness unable to perform the functions of his office for a continuous period of 3 months, the members of the Council shall, in the case of - Filling of vacancies.

- (a) the Chairman, elect 1 of their number to act as Chairman until such time as the Chairman resumes his office or another is appointed in his position; and
- (b) a member, the Chairman shall arrange, subject to this Act, to have another person appointed to the Council.

(2) Where a person is appointed as Chairman or appointed as a member to fill a vacancy, he shall hold office for the remainder of the term of the previous Chairman or member, as the case may be, and shall, subject to this Act, be eligible for re-appointment.

PART III—FUNCTIONS OF THE COUNCIL

Functions of
Council.

10. (1) The Council shall be responsible to regulate professional engineers and the practice of professional engineering in Sierra Leone.

(2) Without prejudice to the generality of subsection (1), the Council shall have the following functions—

- (a) register professional engineers and engineering institutions in Sierra Leone;
- (b) issue practising certificates to registered professional engineers and institutions;
- (c) recommend courses of study and the conduct and standards of qualifying examinations for universities and tertiary institutions;
- (d) organize or cause to be organized training programmes, lectures, seminars or conferences of professional engineers;

- (e) determine and regulate the standards of practice, competence, conduct, and ethics of registered professional engineers and monitor compliance thereto;
- (f) prescribe professional fees based on qualification and experience subject to the approval of the Minister;
- (g) issue accreditation to practicing facilities;
- (h) publish annual list of professional engineers;
- (i) make regulations for all or any of the following purposes-
 - (i) the scale of fees to be charged by professional engineers and engineering institutions for professional advice and services;
 - (ii) the fees to be paid for registration and the annual renewal of registration under this Act;
 - (iii) prescribing the procedure to be followed by persons applying for registration as Professional Engineers and engineering institutions;
- (j) advise the Minister on any matter relating to the engineering profession; and
- (k) perform such other functions as are conducive to the objects of the Council.

PART IV—ADMINISTRATIVE PROVISIONS

Executive
Secretary.

11. (1) There shall be an Executive Secretary appointed by the Council from among the registered professional engineers with the requisite qualifications, seniority and experience as may be required.

(2) The Executive Secretary shall be responsible to the Council for the performance of the following functions—

- (a) provide overall leadership in the administration of the Council, including the supervision of the finances of the Council;
- (b) establish and maintain registers of professional engineers and engineering institutions specified under this Act or as may be approved by the Council;
- (c) serve as Secretary to the Council and for every meeting of the Council, keep minutes of proceedings of the meeting; and
- (d) execute all decisions of the Council and carry out such other duties as may be assigned to him by the Council.

Other staff
of Council.

12. (1) The Council shall have in addition to the Executive Secretary, a secretariat consisting of a finance officer, administrative officer and such other additional staff as may be required for the efficient functioning of the Council.

(2) The other staff of the Council shall be appointed by the Council and shall hold office on such terms and conditions as the Council may determine.

13. An officer or employee of the Council or any person acting on the directions of an officer or employee of the Council shall not be liable in respect of any matter or thing done by him in good faith under this Act. Protection of officers.

PART V—FINANCIAL PROVISIONS

14. (1) The activities of the Council shall be financed by funds consisting of - Funds of Council.

- (a) monies appropriated by Parliament for the purposes of the Council;
- (b) monies given to the Council by way of gifts, endowments, bequests, grants or other contributions by persons and organisations for the purposes of the Council;
- (c) all returns on investment, if any;
- (d) foreign aid and assistance from donor agencies;
- (e) other assets which may from time to time accrue to the Council and out of which shall be met all expenses and liabilities incurred by the Council in carrying out its functions under this Act;
- (f) all other monies which may, from time to time, accrue to the Council.

(2) The funds of the Council shall be applied only for the purposes of the approved budget of the Council.

15. (1) The Council shall keep proper books of account and other records in relation to the activities, property and finances of the Council in a form approved by the Auditor-General, and shall prepare in respect of each financial year of the Council a financial statement which shall include - Accounts and audit.

- (a) balance sheet accounts;
- (b) income and expenditure accounts; and
- (c) source and application of funds.

(2) The accounts of the Council kept under subsection (1) shall, not later than 3 months after the end of each financial year, be audited by the Auditor-General or an auditor appointed by him.

(3) For the purposes of subsection (2), the Auditor-General or the auditor appointed by him shall be entitled to have access to all books of account, vouchers and other financial records of the Council and to require such information and explanation thereon as he may think fit.

(4) The Council shall provide the Auditor-General or the auditor appointed by him with all necessary and appropriate facilities for the examination of the accounts and records of the Council.

(5) The Auditor-General or the auditor appointed by him shall submit to the Council a report on the audited accounts and the financial statements referred to in subsection (1) and shall, in his report draw attention to -

- (a) any irregularities in the accounts;
- (b) any matters that are likely to adversely affect the operations of the Council; and
- (c) any other matter which, in his opinion, ought to be brought to the notice of the Council.

Financial
year of
Council.

16. The financial year of the Council shall be the same as the financial year of the Government.

Annual
report.

17. (1) The Council shall, within 3 months after the end of the financial year, submit to the Minister a report on the performance of its functions during that year and on its policies and programmes.

(2) The annual report shall include the accounts and annual financial statement prepared under section 15 and the report of the audit thereon.

(3) The Minister shall lay copies of the annual report before Parliament within 3 months after he has received the report.

(4) The Council shall make copies of the report available to all stakeholders once it has been laid before Parliament.

PART VI - REQUIREMENT TO PRACTICE AS PROFESSIONAL ENGINEER OR OPERATE AN ENGINEERING INSTITUTION

18. A person shall not be qualified to practice as a professional engineer or establish or operate an engineering institution in Sierra Leone unless that person -

Qualification to practice as professional Engineer or operate an engineering institution.

(a) holds such qualifications and has completed such practical training and for such period as may be prescribed by the Council; and

(b) has been -

(i) registered as a member of the Sierra Leone Institution of Engineers; or

(ii) granted temporary registration by the Council under subparagraph (iii) of paragraph (b) of subsection (2) of section 23.

19. (1) An application for registration as a professional engineer shall be made to the Council in such form as may be prescribed and shall be accompanied by proof that the applicant -

Application for registration as professional engineer.

(a) has been -

- (i) registered as a member of the Sierra Leone Institution of Engineers; or
- (ii) granted temporary registration by the Council under subparagraph (iii) of paragraph (b) of subsection (2) of section 23;
- (b) is resident in Sierra Leone or is ordinarily resident in Sierra Leone; and
- (c) has paid such registration and other fees as prescribed by Council.

(2) Where the Council approves an application under section (1) the Executive Secretary shall issue a certificate of registration to the applicant in such form as the Council may prescribe and make an entry in the appropriate register.

(3) Where the Council refuses an application under section (1), the Executive Secretary shall notify the applicant of the decision of the Council.

(4) A certificate of registration issued under subsection (2) shall be renewed annually subject to the payment of such renewal fee as the Council may prescribe.

20. A person shall not be registered as a professional engineer in Sierra Leone if he has been-

- (a) certified to be of unsound mind;
- (b) convicted of an offence involving fraud or dishonesty; or

Disqualification from registration as professional engineer or engineering institutions.

- (c) adjudged to be insolvent or a bankrupt and has not been certified, by a court of competent jurisdiction, that his insolvency or bankruptcy has arisen wholly or partly from unavoidable losses or misfortunes.

21. (1) Notwithstanding section 18, a registered professional engineer shall not practice as a professional engineer or establish or operate an engineering institution in Sierra Leone unless on the authority of a practicing certificate issued by the Council for that purpose.

Requirement to practice as professional engineer or operate an engineering institution.

(2) An engineering firm, Premier Class and class 1 construction company or institution engage in engineering services, whether local or foreign, shall first be verified and registered by the Council before registration or renewal of certification with the Ministry.

22. (1) An application for a practicing certificate to practise as a professional engineer or establish or operate an engineering institution in Sierra Leone shall be made to the Council, accompanied by the fee, in such form as may be prescribed.

Application for practising certificate.

(2) Where the Council approves an application under subsection (1) the Executive Secretary shall issue a practicing certificate to the applicant in such form as the Council may prescribe and make an entry in the appropriate register.

(3) Where the Council refuses an application under subsection (1), the Executive Secretary shall notify the applicant of the decision of the Council.

(4) A practicing certificate issued under subsection (2) shall be valid until the 31st day of December of the year in which it is issued and shall be renewed annually subject to the payment of such renewal fee as the Council may prescribe;

Provided that the certificate shall cease to be valid where, during the period of validity of the certificate, the person to whom it is issued ceases to be registered under this Act or the registration of that person is suspended.

PART VII - REGISTERS OF PROFESSIONAL ENGINEERS AND ENGINEERING INSTITUTIONS.

Registers of professional engineers and engineering institutions.

23. (1) The Executive Secretary shall establish and maintain the following registers of professional engineers and engineering institutions which shall consist of -

- (a) The Register of Professional Engineers;
- (b) The Register of Engineering Consulting firms;
- (c) The Register of Premier Class and Class 1 Engineering Companies;
- (d) The Register of Engineering Corporate Bodies and Institutions;
- (e) any other register of professional engineers or engineering body or institution approved by the Council.

(2) A register established and maintained under subsection (1) shall be in both physical and electronic form and shall

- (a) contain the name and other particulars of registered professional engineers, professional engineering corporate bodies or institutions; and
- (b) indicate whether registered professional engineers are-

- (i) fully registered professional engineers
- being citizens of Sierra Leone,
practicing for a period exceeding 90
consecutive days in any one year;
- (ii) conditionally registered professional
engineers- being citizens of Sierra
Leone, who hold technicians and
technological qualifications or other
basic engineering approved by the
Council and work under the direct
supervision of a registered professional
engineer;
- (iii) temporarily registered professional
engineers- being non-citizens or visiting
professionals who hold a work permit
or are exempted from holding work
permit under the laws of Sierra Leone.

24. (1) The Executive Secretary shall remove from a register the name and other particulars of a professional engineer or engineering institution - Removal of name from register.

- (a) who has died, in the case of a natural person
or ceased to exist, in the case of an
engineering institution;
- (b) who is of unsound mind or is otherwise
incapable of discharging his duties;
- (c) who has not applied for a renewal practising
certificate for a lapse of 3 years continuously;
and
- (d) whose name has been ordered to be struck
off the register under paragraph (a) of
subsection (5) of section 25.

(2) The Executive Secretary shall, where a name is removed under paragraphs (b), (c) or (d) notify the registered professional engineer or engineering institution of the removal.

PART-VIII DISCIPLINE

Investigation
of complaints.

25. (1) The Disciplinary Committee appointed by the Council under subsection (2) of section 6 shall inquire into complaints made against a professional engineer or an engineering institution in respect of an act of a professional engineer or engineering institution that constitutes professional misconduct as specified in the Schedule.

(2) The Disciplinary Committee shall, in the adjudication of complaints made against a professional engineer or an engineering institution, have the power of the High Court to-

(a) issue a summons to a professional engineer or engineering institution against whom or which a complaint has been made, to appear before it;

(b) subpoena a person to attend a hearing of the Committee, to give evidence and to be examined as a witness.

(3) Where a person fails to appear before a disciplinary Committee after a summons has been issued twice for his appearance, the disciplinary Committee shall proceed with the matter as if the person or institution is before it.

(4) After inquiring into a complaint, the Disciplinary Committee shall submit its report containing its recommendations to the Council.

(5) Where the Council is satisfied that a case has been established against a professional engineer or an engineering institution, it may order that-

- (a) the name of the professional engineer or engineering institution be struck off the Register of Professional Engineers on grounds of professional misconduct;
- (b) the registration of a professional engineer or an engineering institution from membership of the Council for a period specified in the order.

26. (1) A person aggrieved by a decision of the Council under subsection (5) of section 25 may appeal to the High Court against such decision. Appeal

(2) The High Court may, upon such appeal, confirm, revoke or vary the decision appealed against and upon such terms and conditions as it may think fit.

(3) Every appeal under this section shall be made within one month from the date of the decision of the Council.

(4) The Council shall not execute any punishment in accordance with its decision until the appeal has been heard or it is certain that no such appeal has been lodged.

PART-IX OFFENCES AND PENALTIES

27. A person who, not being a registered professional engineer, under this act - Fraud on the title of professional engineer.

- (a) carries on business as a professional engineer in Sierra Leone;
- (b) uses or causes or permits to be used together with the name under which he carries on business, the words "professional engineer" or "engineer" or any words, initials or abbreviations, or words intended to cause or which may reasonably cause any person to believe that that person is a professional engineer registered under this Act,

commits an offence and is liable on conviction to a fine of 20 million Leones or to a term of imprisonment not exceeding 12 months or to both such fine and term of imprisonment.

Practicing
without valid
practicing
certificate.

28. A registered professional engineer who practises as a professional engineer without a valid annual practicing certificate issued under section 22 commits an offence and is liable on conviction to a fine not less than 20 million Leones and to a further fine of Le.1,000,000.00 Leones for each day that the offence continues or to a term of imprisonment not exceeding 12 months or to both such fine and term of imprisonment.

PART - X MISCELLANEOUS

Regulations.

29. The Minister may upon the recommendation of the Council make regulations in respect of any matter relating to or connected with the functions of the Council under this Act, or the proper exercise, discharge or performance thereof.

Repeal of
Act No. 3
of 1990.

30. The Professional Engineers' Act, 1990 is hereby repealed.

SCHEDULE

PROFESSIONAL MISCONDUCT

A professional engineer shall be guilty of professional misconduct if he -

1. allows any other person to practise under his name as a professional engineer unless that person is a registered professional engineer and is in partnership with, or is employed by that professional engineer;
2. holds, assumes or consciously accepts a position in which his personal interest conflicts with his professional duties;

3. accepts remuneration other than professional fees or salary payable by his employer from any source in connection with the works and duties entrusted to him;
4. accepts work involving the giving or receiving of discount or commissions or accepts discount, gift or commission from a contractor or tradesman whether employed in his works or not;
5. accepts remuneration other than professional fees, salary or royalty for acting as an engineering consultant or assistant to an engineering consultant, or solicits orders for a contractor, manufacturer, development firm or company whose activities are otherwise not connected with engineering;
6. allows his name to be affixed to the notepaper of a firm or company whose activities are otherwise connected with engineering for a third party to whom his principal owes a contractual duty, unless all the parties agree that he may act as an independent professional engineer on the direct instructions of the third party as long as he receives payment of his fees direct from the third party;
7. advertise or offers his professional services to a person or body corporate by means of circulars or otherwise or make commercial announcements in the press, except when-
 - (a) applying to prospective employers for a salaried appointment;
 - (b) advertising a professional appointment, open or wanted, directed only to members of the engineering profession;

- (c) responding to an advertisement addressed to members of the engineering profession inviting members to submit their names for inclusion in a panel or list of professional engineers where the response does not constitute or give rise to an act of professional misconduct;
 - (d) notifying the engineering professional press or his correspondence of change of address;
- 8. gives financial consideration for an illustration or description of his work to be published in the press or allows such publication to be used by a publisher for inducement, advertisement from contributors or for attempting to distribute the publication to potential clients;
- 9. attempts to supplant another professional engineer or compete unfairly with another professional engineer when approached or instructed to continue with a professional work in which the other professional engineer was previously engaged;
- 10. when employed as a salaried and official professional engineer by the government, a local authority or statutory body and by reason of his office he is in a position to grant or influence the granting of any form of statutory or other official approval, undertaken from his employers to do so, unless he can prove that his position or action in any matter is above suspicion or free from the suggestion of abuse of power;
- 11. fails to act in an impartial manner in a matter or dispute between a client and contractor;

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12. permits the insertion on a tender, bill of quantities or other contract document of any requirement for payment to be made to him by a contractor whatever may be the consideration unless with the full knowledge and approval of his employer;
 13. takes part in an engineering competition in which the Council has declared by resolution that members of the institution shall not take part because conditions are not in accordance with regulations of the institution of engineering competitions, or being associated in any way with the carrying out of a design selected as a result of a competition in which the Council has declared by resolution that members shall not take part;
 14. fails to notify the secretary of the Council of the particulars of the competition when asked to take part in a limited competition.

MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to establish the Professional Engineering Regulatory Council as an autonomous body responsible for the regulation of professional engineers and the practice of engineering in Sierra Leone, including the registration and discipline of professional engineers.

The Bill is divided into ten Parts.

Part I - Provides for the interpretation of certain terms and expressions in the Bill.

Part II - Deals with the establishment of the Professional Engineering Regulatory Council.

Part III - Specifies the functions of the Professional Engineering Regulatory Council.

Part IV - Deals with the administrative provisions of the Professional Engineering Regulatory Council including the appointment and functions of the Executive Secretary and other staff of the Council.

Part V - Deals with the funds and accounts of the Professional Engineering Regulatory Council.

Part VI - Outlines the requirements to practice as professional engineer or operate an engineering institution in Sierra Leone.

PART VII - Makes provision for registers of professional engineers and engineering institutions.

PART VIII - Deals with the investigation of complaints by the Professional Engineering Regulatory Council and Appeal.

PART - IX Specifies offences and penalties

PART - X MISCELLANEOUS vests the power to make Regulations on the Minister.

MADE this day of , 2021

PETER B. KONTEH,
Minister of Works and Public Assets.

FREETOWN,
SIERRA LEONE.