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NO. 10 OF 1993

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GEOLOGISTS REGISTRATION ACT

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NO. 10 OF 1993

GEOLOGISTS REGISTRATION ACT

[Date of assent: 16th December, 1993.]

[Date of commencement: 31st December, 1993.]

An Act of Parliament to provide for the registration of geologists and for connected purposes

[Act No. 10 of 1993.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Geologists Registration Act, 1993.

2. Interpretation

In this Act, unless the context otherwise requires—

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

“**register**” means the register of geologists kept in accordance with section 6 and includes all or any particular parts thereof;

“**registered geologists**” means a person whose name is for the time being entered in the register as a registered geologist;

“**registered graduate geologist**” means a person whose name is for the time being entered in the register as a registered graduate geologist;

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

**PART II – ESTABLISHMENT OF THE
GEOLOGISTS REGISTRATION BOARD**

3. Establishment of the Geologists Registration Board

(1) There is hereby established a Board to be known as the Geologists Registration Board, which shall have responsibility for regulating the activities and conduct of registered geologists in accordance with the functions and powers conferred upon it by this Act.

(2) The Board shall—

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

(3) The provisions of the Schedule shall have effect as to the constitution and proceedings of the Board and otherwise in relation to the Board.

4. Limitation of liability of members

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

PART III – THE REGISTRAR AND THE REGISTER

5. Appointment of Registrar

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

6. Register of geologists

(1) The Registrar shall keep and maintain a register in which the name of every person entitled to have his name entered therein shall be entered as soon as is practicable after his being accepted by the Board for registration, showing against his name—

- (a) the date of entry;
- (b) his address;
- (c) his qualifications;
- (d) the geological discipline in which he is registered as the case may require; and
- (e) such other particulars as the Board may from time to time direct.

(2) The register shall be kept and maintained in as many different parts as the Board shall from time to time direct:

Provided that the names of registered geologists shall be entered in a separate part of the register from the part in which the names of registered graduate geologists are entered.

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

7. Publication of register and list

(1) The Registrar shall cause to be published in the *Gazette*, as soon as may be practicable after registration, the name, address and qualifications of each registered geologist and, subject to the directions of the Board, he may cause to be so published any amendment to or deletion from register.

(2) The Registrar shall cause to be published in the *Gazette*, at the beginning of each year, a list containing the names, addresses and qualifications of all registered geologists remaining on the register at the close of the previous year.

8. Publication of prima facie evidence of registration

A publication under section 7 shall be *prima facie* evidence that the persons named therein are registered under this Act, and the deletion from the register of the name of any person from such publication, shall be *prima facie* evidence that such person is not so registered.

9. Inspection of register

Any person may inspect the register and any documents relating to any entry therein, and may obtain from the Registrar a copy of, or an extract from, the register or any such document, on payment of the prescribed fee.

10. Proof of documents

(1) In any legal proceedings, a paper purporting to be a copy of, or an extract from, the register or any document kept or published by the Registrar, and purporting to be 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) No process for compelling the production of the register or any document kept by the Registrar shall issue from any court except with the leave of that court, and any such process which is so issued shall bear a statement that it was issued with the leave of the court.

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

- (a) to produce the register or any document if its contents can be proved under subsection (1); or
- (b) to appear as a witness to prove any entry in the register, the matters recorded in the register or any such document,

unless the court for special cause so orders.

PART IV – REGISTRATION**11. 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 payment to the Board of the prescribed fee, to be registered under this Act and to have his name entered in the register as a registered geologist if he is—

- (a) a member of a Geologists Society the membership of which is recognized for the time being by the Board as furnishing a sufficient guarantee of academic knowledge of, and practical experience in, geological sciences; or
- (b) a person who—
 - (i) is the holder of a degree, diploma or licence of a university or school of geological sciences which may be recognized for the time being by the Board as furnishing sufficient evidence of an adequate academic training in geological sciences; and
 - (ii) has had not less than two years' practical experience of such a nature as to satisfy the Board as to his competence to practise as a registered geologist:

Provided that not less than two years of the practical experience required by this subparagraph shall have taken place after obtaining the academic qualifications specified in subparagraph (i).

(2) Subject to this Act, a person shall be entitled, on making an application to the Board in the prescribed form and on payment to the Board of the prescribed fee, to be registered under this Act and to have his name entered in the register as a registered graduate geologist if he is a person to whom subsection (1)(b)(i) applies but is not yet a person to whom either subsection (1)(a) or subsection (1)(b)(ii) applies.

(3) Once a person has been registered as a registered graduate geologist under subsection (2) he shall be deemed for all purposes to have been accepted by the Board as being academically qualified for registration as a registered geologist and

subsequent acceptance of his name for registration as a registered geologist under subsection (1)(b)(ii) as distinct from its acceptance under the other provisions of subsection (1) shall not be challenged.

(4) The Board may require an applicant for registration to satisfy it that his professional and general conduct have been such as, in the opinion of the Board, to make him a fit and proper person to be registered under this Act and the Board may direct the Registrar to postpone the registration of an applicant until it is so satisfied.

12. Temporary registration

(1) Where a person satisfies the Board—

- (a) that he is not ordinarily resident in Kenya;
- (b) that he is or intends to be present in Kenya in the capacity of a geologist for the express purpose of carrying out specific work for which he has been engaged; and
- (c) that he is, or immediately before entering Kenya was, in practice as a geologist in such a capacity as to satisfy the Board of his fitness to serve the public as a registered geologist,

the Board may, if it thinks fit, direct that such person shall be registered either for a period not exceeding one year or for the duration of any specific work.

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

(3) Registration of a person under this section shall continue only for the period or for the duration of the work specified by Board and the decision of the Board as to whether or not the work has terminated shall be conclusive.

(4) A person registered under this section shall, in relation to the period or the work specified and to things done or omitted in respect thereof, be treated as not being so registered.

13. Power to remove from and correct register

(1) The Board may at any time direct that the name of a person be removed from the register where such person has—

- (a) 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
- (b) requested that his name be removed from the register, in which case such person may be required to satisfy the Board by affidavit lodged with the Registrar that no criminal proceedings or disciplinary proceedings under section 15 are being or are likely to be taken against him; or
- (c) been found by the Board to be guilty of such misconduct as is described in section 15.

(2) The Registrar shall remove from the register the name of every person who dies and shall remove from the register any entry which has been incorrectly or fraudulently made.

(3) Except in the circumstances specified in subsection (1)(a) and in subsection (2), the removal of a person's name from the register shall be notified by the Registrar to the person by prepaid registered letter addressed to the address appearing in the register against his name immediately before the removal.

(4) Subject to section 14, a person whose name has been removed from the register shall cease from the date of such removal to be registered for the purposes of this Act.

14. Restoration to the register

(1) Where the name of any person has been removed from the register under section 13, the name of that person shall not be again entered in the register except by the direction of the Board.

(2) Where the name of any person has been removed from the register or the effect of the registration of any person has been suspended in terms of paragraph (b) of subsection (1) of section 15, the Board may, either of its own motion or on the application of the person concerned made in the prescribed manner, and in either case after holding such inquiry as the Board thinks fit, direct that—

- (a) the removal from the register be confirmed; or
- (b) the name of that person be restored to the register; or
- (c) the suspension of the effect of the registration of that person be terminated.

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

15. Powers to suspend registration, etc.

(1) If a registered geologist or registered graduate geologist 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 improper or disgraceful conduct in a professional respect, the Board may—

- (a) caution or censure such registered geologist or registered graduate geologist; or
- (b) direct that, during such period as the Board may specify, his registration shall not have effect; or
- (c) direct that his name be removed from the register.

(2) For the purposes of this section a registered geologist who describes himself as a consulting geologist shall be guilty of improper conduct in a professional respect if he can be shown to have any direct or indirect interest in commercial, manufacturing or contracting interests such as would tend to influence his exercise of independent professional judgment in the matters upon which he advises.

(3) For the purposes of this section, a registered graduate geologist who describes himself in any way so as to imply that he is, or so as to lead any person to think that he is, qualified for registration as a registered geologist, shall be guilty of improper or disgraceful conduct in a professional respect.

16. Procedure at inquiry

(1) Upon any inquiry held by the Board under this Act, the person whose conduct is being inquired into shall be entitled to appear and to be heard in person or to be represented by an advocate.

(2) For the purposes of proceedings at any 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) All summonses and orders issued under the hand of the chairman or vice-chairman of the Board shall be deemed to be issued by the Board.

(4) The chairman, or in his absence the vice-chairman, of the Board 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 22, the Board shall have power to regulate its own procedure at an inquiry held by it.

(6) For the purposes of Chapter XI of the Penal Code (Cap. 63), an inquiry held by the Board shall be deemed to be a judicial proceeding.

17. Disobedience of summons and refusal to give evidence

Any person upon whom summons or an order issued under section 16 has been served who refuses or omits without sufficient cause to attend at the time and place mentioned therein, or 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 refuses or omits without sufficient cause to produce any documents in his possession or under his control which are specified in the order, shall be guilty of an offence and liable to a fine not exceeding one thousand shillings:

Provided that every person giving evidence before the Board shall, in respect of any evidence given by him or any document produced by him, be entitled to all the privileges to which he would be entitled as a witness before the High Court.

18. Appeals

(1) Any person aggrieved by a decision of the Board to refuse to register his name, or to remove the name of a registered geologist or a registered graduate geologist from the register, or to suspend the effect of registration of his name, or to refuse to restore his name to the register, may appeal to the High Court against the decision of the Board and in any such appeal the High Court may give such directions in the matter as it thinks proper, and any order of the High Court under this section shall be final.

(2) The Board may appear as respondent and be heard on any appeal against its decision and, for the purpose of enabling directions to be given as to the costs of any such appeal, the Board shall be deemed to be a party thereto, whether or not it appears at the hearing of the appeal.

(3) Until rules of court are made under the Judicature Act (Cap. 8), for such appeals, and subject to any such rules when made, the provisions of the Civil Procedure Act (Cap. 21), shall apply as if the decision or direction of the Board were a decree of a court exercising original civil jurisdiction.

PART IV – MISCELLANEOUS PROVISIONS

19. Effect of registration

(1) Every person whose name has been entered in the register as a registered geologist shall, so long as his name remains in the register as a registered geologist, be entitled to adopt and use the style and title “Registered Geologist”, or such contraction thereof as the Board may approve, and to offer his services to the public for gain or reward or by way of trade in the geological discipline in which he is registered.

(2) Every person whose name has been entered in the register as a registered geologist shall, so long as his name remains in the register as a registered graduate geologist, be entitled to adopt and use the style or title “Registered Graduate Geologist”, or such contraction thereof as the Board may from time to time approve, and may offer his services for employment in the geological discipline in which he is registered.

20. Restrictions on use of titles or words to describe non-registered persons, etc.

(1) Any person who, whether or not he is otherwise qualified as or to be a geologist of any description, not being registered under this Act—

(a) pretends to be a registered geologist or a registered graduate geologist; or

(b) subject to section 23, takes or uses in any way the style or title of “geologist” in describing his occupation or his business or any other name, style, title, addition or description implying, whether in itself or in the circumstances in which it is used, that such person is a geologist; or

(c) in any way holds himself out to be a geologist of any description,

shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings.

(2) Any person who—

(a) being registered under this Act as a registered graduate geologist, in any way pretends to be or to act as a registered geologist; or

(b) being registered under this Act in one or more disciplines, pretends to be, or acts as if he was, registered in another discipline,

shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings.

21. 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 himself or any other person to be registered; or

(c) knowingly and wilfully makes any statement which is false in a material particular, or which is misleading, with a view to gaining any advantage, concession 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 ten thousand shillings.

22. Regulations

Subject to section 18(3), the Minister may make regulations generally for the better carrying out of the provisions of this Act, and, without prejudice to the generality of the foregoing, any such regulations may provide for—

- (a) the conduct of the business of the Board and the procedure to be followed by the Board in any inquiry under this Act;
- (b) the appointment by the Board from amongst its members of sub-committees and the co-option of persons thereto;
- (c) the duties of the Registrar;
- (d) the issue of certificates of registration;
- (e) the fees to be paid for anything which may be done under this Act;
- (f) the forms to be used under this Act;
- (g) the exemption of any persons or class of persons from all or any of the provisions of this Act, provided they comply with such conditions as may be prescribed by the regulations; and
- (h) prescribing anything which under this Act may be prescribed.

23. Exemptions

(1) Nothing in this Act shall prohibit or render liable to prosecution any person who is registered in accordance with the provisions of the Architects and Quantity Surveyors Act (Cap. 525), or Engineers Registration Act (Cap. 530), from performing any function or exercising any power which he may properly perform as an architect, a quantity surveyor, or engineer as the case may be.

(2) The Minister may by regulation made under section 22 exempt certain persons, or classes of persons in particular geological disciplines or in particular occupations or employment, from having to comply with any or all of the provisions of this Act.

SCHEDULE

[Section 3(3).]

1. Membership of the Board

(1) The Board shall consist of seven members who shall be persons eligible for registration under this Act and, where practicable, resident in Kenya.

(2) The members of the Board shall be—

- (a) four persons appointed by the Minister; and
- (b) three persons appointed by the Geological Society of Kenya.

2. Tenure of office of members of Board

(1) Every year one of the members of the Board in the service of the Government and one of the members not being in the service of the Government shall retire, and the member to retire in each year shall be the one who has been in office longest; and where two or more members have been in office for the same length of time the member to retire shall be chosen by ballot.

(2) A member may resign by giving to the Minister notice in writing of his intention to do so.

(3) Retiring members are eligible for reappointment.

(4) Casual vacancies shall be filled as they arise, and for the purpose of subparagraph (1) a member appointed to fill casual vacancy shall be treated as if he were the member he was appointed to replace.

3. Chairman and vice-chairman of the Board

(1) The Minister shall nominate one member to be chairman of the Board, and the vice-chairman shall be elected by the Board from among its members immediately after the annual appointments of members have taken place.

(2) In the absence of the chairman, or in the event of his incapacity from illness or any other cause, the functions of the chairman shall be performed by the vice-chairman.

4. Meetings of the Board

(1) The chairman of the Board shall convene an ordinary meeting of the Board whenever it may be necessary or expedient for the transaction of its business and shall appoint a suitable time, place and date for the holding of each meeting.

(2) The chairman of the Board may convene a special meeting of the Board at any time, and shall cause a special meeting of the Board to be held within twenty-one days after receiving a written request to do so signed by not fewer than three members of the Board.

5. Quorum and voting at meetings of the Board

(1) The chairman or vice-chairman and three other members of the Board shall constitute a quorum at any meeting of the Board.

(2) All acts, matters and things authorized to be done by the Board shall be decided by 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 a meeting by circulation of the relevant papers among all the members and the expression in writing of their views, but any member may require that a decision shall be deferred for consideration at a meeting of the Board.

6. Vacancies

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

7. 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 Minister may appoint a suitable person to be secretary to the Board for the purposes of attending meetings of the Board, keeping the minutes of the meetings and performing such other secretarial duties as the Board may be required.

8. Procedure

Subject to this Schedule and to any regulations made under section 22, the Board may regulate its own procedure.

9. 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 of one other member of the Board.
