

CHAPTER 27:06
LAND SURVEYORS ACT

Act 12/1987, 22/2001 (s. 4).

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AN ACT to provide for the registration of land surveyors, non-practising land surveyors, land surveyors-in-training and land survey technicians; to provide for the continued existence of the Council of Land Surveyors and for its functions; and to provide for matters incidental to or connected with the foregoing.

[Date of commencement: 18th March, 1988.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Land Surveyors Act [*Chapter 27:06*].

2 Interpretation

In this Act—

“annual registration fee” means the annual registration fee determined and levied in terms of subsection (2) of section *twenty-seven*;

“certificate of registration” means a certificate of registration, including a duplicate thereof, issued to a land surveyor, land surveyor-in-training or land survey technician in terms of this Act;

“Council” means the Council of Land Surveyors referred to in section *three*;

“fixed date” means the 18th March, 1988;

“initial registration fee” means the initial registration fee determined and charged in terms of subsection (1) of section *twenty-seven*;

“land survey technician” means a person who—

(a) is registered as a land survey technician in terms of section *twenty*; or

(b) is deemed to be registered as a land survey technician in terms of paragraph (c) of subsection (2) of section *thirty-five*;

“land surveyor” means a person who is recognized as a land surveyor for the purposes of the Land Survey Act [*Chapter 20:12*] and—

(a) is registered as such in terms of section *sixteen*; or

(b) is deemed to be registered as such in terms of paragraph (c) of subsection (2) of section *thirty-five*;

“land surveyor-in-training” means a person registered as a land surveyor-in-training in terms of section *nineteen* or paragraph (c) of subsection (2) of section *thirty-five*;

“member” means a member of the Council;

“Minister” means the Minister of Lands and Water Resources or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“non-practising land surveyor” means a person registered as a non-practising land surveyor in terms of section *seventeen*;

“prescribed” means prescribed by the Council in rules made under section *thirty-four* or continued in force in terms of paragraph (a) of subsection (2) of section *thirty-five*;

“Register” means the Register of Land Surveyors maintained in terms of section *fourteen*;

“Registrar” means the Registrar of Land Surveyors appointed in terms of section *thirteen*;

“repealed Act” means the Land Surveyors Registration Act [*Chapter 221 of 1974*];

“specified foreign licence” means a licence declared by the Minister to be a specified foreign licence in terms of section *eighteen*;

“specified foreign qualification” means a degree, diploma or other qualification declared by the Minister to be a specified foreign qualification in terms of section *eighteen*;

“Surveyor-General” means the Surveyor-General referred to in the Land Survey Act [*Chapter 20:12*].

PART II

COUNCIL OF LAND SURVEYORS

3 Council of Land Surveyors

The Council of Land Surveyors established in terms of the repealed Act shall continue in existence as a body corporate capable of suing and being sued in its corporate name and of performing all such acts as are necessary for or incidental to the carrying out of its functions under this Act.

4 Composition of Council

(1) The Council shall consist of seven members of whom—

- (a) one member shall be the Surveyor-General; and
- (b) two members shall be appointed by the Minister; and
- (c) four members shall be elected by persons who are land surveyors.

(2) Without derogation from section 29 of the Interpretation Act [*Chapter 1:01*] the Minister, in making any appointment in terms of subsection (1) of section *five* shall, subject to the same conditions of appointment specified in that subsection, appoint an alternate to such appointee.

(3) The Minister shall as soon as possible give notice in the *Gazette* of any appointment or election of a member or members made in terms of this section.

5 Qualifications and disqualifications for appointment to Council

(1) One of the members appointed by the Minister shall be a person who—

- (a) has been for not less than five years, whether continuously or otherwise, qualified to practise as a legal practitioner in Zimbabwe; or
- (b) has been a magistrate in Zimbabwe for an aggregate period of not less than five years; or
- (c) possesses such legal qualifications and has such legal experience as the Minister, after consultation with the Minister responsible for justice, considers suitable and adequate for his appointment to the Council.

(2) No person shall be appointed or elected as a member, and no person shall hold office as a member who—

- (a) save as is otherwise provided in subsection (1), is not a land surveyor; or
- (b) has, in terms of a law in force in any country—
 - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
 - (ii) made an assignment to, or arrangement or composition with, his creditors which has not been rescinded or set aside; or
- (c) has, in the period of five years immediately preceding the date of his proposed appointment, been convicted—
 - (i) within Zimbabwe of a criminal offence; or
 - (ii) outside Zimbabwe of an offence by whatever name called which, if committed within Zimbabwe would have been a criminal offence;

and sentenced therefor by a court to imprisonment without the option of a fine, whether or not such sentence has been suspended, and has not received a free pardon in respect thereof; or
- (d) has, in the period of five years immediately preceding the date of his proposed appointment, been found guilty of improper or disgraceful conduct in terms of Part IV; or
- (e) is not ordinarily resident in Zimbabwe; or
- (f) has, in terms of any law been declared to be of unsound mind, if such declaration has not been revoked.

6 Tenure and conditions of office of members of Council

(1) Subject to paragraph (e) of subsection (2) of section *thirty-five*—

- (a) the members appointed in terms of paragraph (b) of subsection (1) of section *four* shall hold office for such period, not exceeding three years, as the Minister may determine at the time of their appointment;
- (b) the members elected in terms of paragraph (c) of subsection (1) of section *four* shall hold office for a period of two years.

(2) Unless he becomes disqualified in terms of section *seven* a member appointed or elected in terms of section *four* shall be eligible for re-appointment or re-election, as the case may be.

7 Vacation of office by members of Council

A member shall vacate his office and his office shall become vacant—

- (a) one month after the date he gives notice in writing to the Minister of his intention to resign his office or after the expiration of such shorter period of notice as he and the Minister may agree; or
- (b) if any circumstances arise which, if he were not a member, would cause him to be disqualified for appointment or election as a member under paragraph (a), (b), (e) or (f) of subsection (2) of section *five*; or
- (c) if he begins to serve a sentence such as is referred to in paragraph (c) of subsection (2) of section *five*; or
- (d) in the case of a member other than the Surveyor-General, if he is absent from four consecutive meetings of the Council without leave of the Council, which leave shall not be granted for a period exceeding six consecutive months; or
- (e) if he is found guilty of improper or disgraceful conduct in terms of Part IV:

Provided that where the member concerned lodges a notice with the Council of his intention to appeal against the decision of the Council in accordance with subsection (1) of section *thirty* the member shall not be required to vacate his office until the final disposal or withdrawal of such appeal, whereupon the member shall forthwith vacate his office and his office shall become vacant unless the decision of the Council finding him guilty of improper or disgraceful conduct is set aside; or

- (f) if he is required in terms of subsection (1) of section *eight* to vacate his office.

8 Power of Minister to dismiss or suspend members of Council

(1) The Minister, after consultation with the Council, may require any member other than the Surveyor-General to vacate his office if—

- (a) the member has been guilty of any conduct which renders him unsuitable as a member; or
- (b) the member has become mentally or physically incapable of performing his duties as a member.

(2) The Minister, after consultation with the Council, may suspend from office any member other than the Surveyor-General, against whom—

- (a) criminal proceedings have been instituted for an offence in respect of which a sentence of imprisonment without the option of a fine may be imposed; or
- (b) disciplinary proceedings are instituted by the Council;

and while that member is so suspended, he shall not carry out any functions as a member.

9 Filling of vacancies on Council

(1) Every vacancy on the Council shall be filled by the appointment or election, as the case may be, of another member in the same manner and subject to the same conditions in or on which the member whose office has become vacant was appointed or elected:

Provided that where an elected member dies or vacates his office—

- (a) less than three months before the expiry of his term of office, it shall not be necessary to elect a person to replace him before the date on which his term of office would have expired;
- (b) three or more months before the expiry of his term of office, the member elected to replace him shall hold office for the remainder of that term of office.

(2) If insufficient land surveyors are elected as members in terms of paragraph (c) of subsection (1) of section *four*, the Minister may appoint the appropriate number of land surveyors to fill the vacancies, and the members so appointed shall be deemed to have been elected in terms of that paragraph.

(3) Subsection (3) of section *four* shall apply, *mutatis mutandis*, to any appointment or election made in terms of this section.

10 Chairman and vice-chairman of Council

(1) Subject to paragraph (c) of sub-section (3) of section *thirty-five*, there shall be a chairman and vice-chairman of the Council who shall be elected from amongst the members of the Council by the members present at the first meeting of the Council held after any vacancy in the office of chairman or vice-chairman, as the case may be, has occurred.

(2) The chairman and vice-chairman shall hold office for such period, being not less than twelve months, as the Council may from time to time determine, unless they sooner resign their office as chairman or vice-chairman, as the case may be, or cease to be members of the Council.

11 Meetings and procedure of Council

(1) Meetings of the Council shall be held at such times and places as the Council may determine:

Provided that the Council shall meet at least once in every year.

(2) The chairman—

- (a) may at any time; and
- (b) shall within twenty-one days of being requested to do so by a majority of the members;

call a special meeting of the Council to be held at such time and place as the chairman may direct.

(3) Five members shall form a quorum.

(4) The chairman or, in his absence, the vice-chairman shall preside at all meetings of the Council:

Provided that if both the chairman and the vice-chairman are absent from any meeting of the Council, the members present shall elect from their number an acting chairman who shall preside at that meeting.

(5) All questions arising at any meeting of the Council shall be decided by a majority of the votes of the members present and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

12 Remuneration of members of Council

The Council shall, from its funds, pay such travelling, subsistence and other allowances as it may prescribe from time to time to members in respect of their attendance at the meetings of the Council or their engagement on the business of the Council.

PART III

COUNCIL STAFF, REGISTER AND REGISTRATION

13 Appointment of Registrar of Land Surveyors and of other officers of Council

The Council—

- (a) shall appoint an officer to be known as the Registrar of Land Surveyors; and
- (b) may appoint such other officers as it may deem necessary to assist it in the carrying out of its functions;

who shall hold office on such terms and conditions and at such remuneration as the Council may from time to time determine.

14 Register of Land Surveyors

(1) The Registrar shall maintain a register, to be known as the Register of Land Surveyors, in which he shall record such particulars as the Council may from time to time determine of every person registered as a land surveyor, non-practising land surveyor, land surveyor-in-training or land survey technician.

(2) The Register shall be kept at the head office of the Council and shall be open to inspection during office hours by any member of the public on payment of the prescribed fee, if any.

15 Prohibition from practising by unregistered person

(1) No person shall—

(a) practise as, or in any manner hold himself out to be, a land surveyor, land surveyor-in-training or land survey technician; or

(b) in any manner hold himself out to be a non-practising land surveyor;

unless he is registered as such in terms of this Act.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level eight or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

16 Registration of land surveyors

(1) Any holder of a certificate issued in terms of subsection (5) of section 12 of the Land Survey Act [*Chapter 20:12*] who—

(a) has made and signed a declaration in the form set out in the First Schedule; and

(b) is not disqualified from being registered as a land surveyor in terms of this Act;

may apply in writing to the Registrar for registration as a land surveyor.

(2) An application made in terms of subsection (1) shall be accompanied by—

(a) the prescribed initial registration fee; and

(b) the applicant's certificate and declaration referred to in subsection (1); and

(c) such other evidence showing that the applicant is a fit and proper person to be registered as the Council may require.

(3) When the Registrar is satisfied that subsections (1) and (2) have been complied with, he shall forthwith refer the application for registration and any report he may have made thereon to the Council.

(4) On receipt of an application for registration referred to it in terms of subsection (3), the Council shall, as soon as possible, consider the application and—

(a) the applicant has not been disqualified in terms of paragraph (c) of subsection (1) of section *twenty-five* from being registered as a land surveyor; and

(b) the Council is satisfied that the applicant is a fit and proper person to be registered;

the Council shall grant his application and the Registrar shall register the applicant as a land surveyor, issue to him a certificate of registration in the prescribed form and comply with subsection (1) of section *thirty-one*.

(5) Where, after considering an application submitted to it in terms of subsection (3), the Council decides to reject the application, the Council shall—

(a) direct the Registrar to notify the applicant concerned, by registered letter, of its decision and the reasons therefor and, in that letter, to advise such applicant that he may, within thirty days, lodge an objection with the Council against its decision; and

(b) if the applicant lodges an objection within the period stipulated in paragraph (a), give such applicant an opportunity, by himself or represented by a legal practitioner, of showing cause to the contrary and of being heard for the purpose.

(6) If an applicant—

(a) fails to lodge an objection with the Council within the period stipulated in paragraph (a) of subsection (5); or

(b) having lodged an objection, withdraws or abandons the objection;

the Council shall reject his application and direct the Registrar to notify the applicant accordingly and to advise him of his rights under section *thirty*.

(7) Where after complying with paragraph (b) of subsection (5) the Council decides to reject an application, the Council shall forthwith—

(a) notify the applicant concerned, or his legal representative, if any, of its decision and the reasons therefor; and

(b) advise such applicant or his legal representative, as the case may be, of the applicant's rights under section *thirty*.

17 Registration of non-practising land surveyors

(1) A land surveyor who wishes to cease to practise as a land surveyor may apply in writing to the Registrar to be registered as a non-practising land surveyor and if, after satisfying itself that no disciplinary or criminal proceedings are being, or are likely to be, instituted against such applicant in connection with the practice of his profession, the Council approves the application, the Registrar shall endorse the Register accordingly and comply with subsection (1) of section *thirty-one*.

(2) While registered as a non-practising land surveyor, a person shall—

- (a) unless he is granted an exemption in terms of paragraph (b) of the proviso to subsection (2) of section *twenty-seven*, remain liable to pay the annual registration fee payable by non-practising land surveyors under this Act; and
- (b) not have the right personally to undertake, or to supervise the undertaking, by a land surveyor-in-training or land survey technician, of such surveys as are referred to in section 3 of the Land Survey Act [*Chapter 20:12*] or to sign any diagram, plan or document connected with such surveys; and
- (c) *mutatis mutandis*, continue to be entitled to or subject to, as the case may be, any other rights, duties and liabilities of land surveyors under the Land Survey Act [*Chapter 20:12*] and this Act as though he were a land surveyor.

18 Qualifications for registration as land surveyor-in-training

(1) Subject to section *nineteen* any person holding one or more of the following qualifications shall be eligible to apply for registration as a land surveyor-in-training—

- (a) a degree in land surveying granted by the University of Zimbabwe;
- (b) a specified foreign qualification;
- (c) a specified foreign licence.

(2) For the purpose of paragraphs (b) and (c) of subsection (1) the Minister, acting on the advice of the Council may, by statutory instrument declare—

- (a) a degree, diploma or other qualification in land surveying granted by a university or other institution outside Zimbabwe to be a specified foreign qualification;
- (b) a licence to practise land surveying in a country other than Zimbabwe to be a specified foreign licence.

(3) Before tendering advice to the Minister for the purpose of subsection (2), the Council shall consult the Surveyor-General and, in tendering advice to the Minister, make known the agreement or disagreement of the Surveyor-General regarding the proposal.

(4) The Minister may amend or repeal any notice made in terms of subsection (2), and subsections (2) and (3) shall apply, *mutatis mutandis*, to any such amendment or repeal.

19 Registration of land surveyors-in-training

(1) Any person who—

- (a) possesses any of the qualifications referred to in subsection (1) of section *eighteen*; and
- (b) is not disqualified in terms of paragraph (c) of subsection (1) of section *twenty-five* from being registered;

may apply in writing to the Registrar for registration as a land surveyor-in-training.

(2) An application made in terms of subsection (1) shall be accompanied by—

- (a) the prescribed initial registration fee; and
- (b) a certificate, or a certified copy thereof, showing that the applicant possesses any one of the qualifications referred to in subsection (1) of section *eighteen*; and
- (c) such other evidence showing that the applicant is a fit and proper person to be registered as the Council may require.

(3) Subsections (3) to (7) of section *sixteen* shall apply, *mutatis mutandis*, in respect of any application for registration under this section.

20 Registration of land survey technicians

(1) Any person who—

- (a) possesses the qualifications prescribed under paragraph (n) of subsection (1) of section *thirty-four*; and
- (b) is not disqualified in terms of paragraph (c) of subsection (1) of section *twenty-five* from being registered;

may apply in writing to the Registrar for registration as a land survey technician.

(2) An application made in terms of subsection (1) shall be accompanied by—

- (a) the prescribed initial registration fee; and
- (b) a certificate, or a certified copy thereof, showing that the applicant possesses the qualifications referred to in paragraph (a) of subsection (1); and
- (c) such other evidence showing that the applicant is a fit and proper person to be registered as the Council may require.

(3) Subsections (3) to (7) of section *thirteen* shall apply, *mutatis mutandis*, in respect of any application for registration under this section.

21 Offences in connection with registration, Register and certificates of registration

Any person who—

- (a) procures or attempts to procure, for himself or another person, registration by means of fraud, a false representation or the concealment of a material fact; or
 - (b) makes or causes to be made in connection with an application for registration a false declaration in a document used for the purpose of establishing his identity; or
 - (c) without lawful authority, makes or causes to be made an entry in or alteration of or deletion from the Register or a certified copy thereof or extract therefrom or a certificate of registration; or
 - (d) wilfully destroys, injures or renders illegible or causes to be destroyed, injured or rendered illegible an entry in the Register; or
 - (e) without lawful authority, wilfully destroys, injures or renders illegible or causes to be destroyed, injured or rendered illegible a certificate of registration; or
 - (f) forges or utters, knowing the same to be forged, a document purporting to be a certificate of registration;
- shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Section as amended by section 4 of Act No. 22 of 2001]

PART IV

CANCELLATION OF REGISTRATION, DISCIPLINARY INQUIRIES AND PENALTIES

22 Cancellation of registration

(1) Without derogation from the generality of subsection (1) of section *twenty-five* as read with paragraph (m) of subsection (1) of section *thirty-four*, the Council—

- (a) shall direct the Registrar to cancel the registration of any land surveyor, non-practising land surveyor, land surveyor-in-training or land survey technician who the Council is satisfied—
 - (i) has died; or
 - (ii) has become so mentally or physically disabled as to be incapable of properly performing his professional duties; and
- (b) may direct the Registrar to cancel—
 - (i) the registration of any land surveyor, non-practising land surveyor, land surveyor-in-training or land survey technician who—
 - A. fails to pay the annual registration fee within a period of three months from the date upon which it becomes payable; or
 - B. submits a written application therefor to the Registrar, if the Council, after satisfying itself that no disciplinary or criminal proceedings are being, or are likely to be, instituted against such applicant in connection with the practice of his profession, approves the application; or
 - C. is, after an inquiry made in terms of section *twenty-three* found guilty of such misconduct as will justify the cancellation of his registration; or
 - (ii) any entry in the Register which is proved to the satisfaction of the Council to have been made in error, whether such an error was made through fraud, false representation, concealment of a material fact or in any other manner which is not authorized by this Act.

(2) Every person whose registration is cancelled in terms of subsection (1) or any other provision of this Act shall return to the Registrar, within thirty days after being requested in writing to do so, the certificate of registration issued to him in terms of this Act:

Provided that the Council may dispense with this requirement if it is satisfied that the person concerned has lost his certificate or that the certificate has been destroyed.

(3) Any person who without lawful excuse fails to comply with subsection (2) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

(4) A conviction for an offence in terms of subsection (3) shall not be a bar for a further prosecution or prosecutions for a continuance of the offence.

(5) Whenever a land surveyor, land surveyor-in-training or land survey technician is suspended from practising in terms of this Act, he shall, during the period of such suspension, be disqualified from practising as a land surveyor, land surveyor-in-training or land survey technician, as the case may be, and his registration shall be deemed to be cancelled until the period of suspension has expired:

Provided that subsections (2) to (4) shall not apply to any person who is so suspended.

23 Inquiries by Council into charges of misconduct

(1) Subject to this section, the Council—

- (a) shall, in respect of any charge lodged against any land surveyor by the Minister in terms of section 15 of the Land Survey Act [*Chapter 20:12*]; and
- (b) may, in respect of any land surveyor, non-practising land surveyor, land surveyor-in-training or land survey technician who was or who is registered under this Act;

hold an inquiry into any complaint, charge or allegation of improper or disgraceful conduct levelled against any such land surveyor, non-practising surveyor, land surveyor-in-training or land survey technician, or former land surveyor, non-practising land surveyor, land surveyor-in-training or land survey technician, as the case may be, and, where it finds the person concerned to be guilty of any such conduct, shall impose on such person any of the penalties specified in section *twenty-five*.

(2) The Council shall, in the case of a complaint, charge or allegation in respect of which criminal proceedings have been, or are likely to be, instituted against any person who is or was registered as a land surveyor, non-practising land surveyor, land surveyor-in-training or land survey technician under this Act, postpone its inquiry until such proceedings have been determined.

(3) Every person in respect of whose conduct inquiry is to be made shall be given an opportunity, by himself or represented by a legal practitioner, of answering the charge against him and of being heard in his defence.

(4) For the purposes of an inquiry held by it in terms of this section, the Council may do either or both of the following—

- (a) under the hand of the chairman or the Registrar, summon witnesses and take evidence on oath and, for that purpose, administer to any witness through the chairman, an oath;
- (b) require a witness to produce any book, plan, record, document or thing and examine any book, plan, record, document or thing:

Provided that any witness expenses payable to any person summoned to give evidence or produce any book, plan, record, document or thing at an inquiry shall be paid out of the funds of the Council and may, if the Council makes an order to that effect in terms of subsection (1) of section *twenty-five*, be recovered by the Council from the person who is the subject of the inquiry.

(5) A summons for the attendance before the Council or for the production to it of any book, plan, record, document or thing shall be as nearly as practicable in the form set out in the Second Schedule and shall be signed by the chairman or Registrar, and shall be served either by registered letter through the post or in the same manner as it would be served if it were a subpoena issued by a magistrates court in criminal proceedings.

(6) The Council shall, in any inquiry held by it in terms of this section, record the proceedings, including any evidence heard by it, and the decision made by it and the reasons therefor.

(7) Where, after an inquiry made in terms of subsection (1), the Council decides to impose any of the penalties specified in section *twenty-five* it shall direct the Registrar to notify the person in respect of whom the inquiry was made, by registered letter, of its decision and the reasons therefor and, in such letter, to advise such person of his rights under section *thirty*.

24 Penalties in relation to inquiries

(1) Every person who is summoned in terms of subsection (4) of section *twenty-three* shall obey the summons served on him, and any person who—

- (a) without sufficient cause, fails to attend and give evidence relevant to an inquiry, at the time and place specified in the summons; or
- (b) refuses to—
 - (i) be sworn; or
 - (ii) produce any book, plan, record, document or thing which he has been required by summons to produce; or
 - (iii) answer fully and satisfactorily any question lawfully put to him;

shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment:

[Subsection as amended by section 4 of Act No. 22 of 2001]

Provided that a person so summoned shall be entitled to all the privileges to which a witness subpoenaed to give evidence before the High Court is entitled.

(2) Any person who, after being sworn, gives false evidence before the Council on any matter, knowing such evidence to be false or not knowing or believing it to be true, shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

25 Penalties for improper or disgraceful conduct

(1) Subject to sections *twenty-nine* and *thirty* any person who, after an inquiry made in terms of section *twenty-three* is found guilty of improper or disgraceful conduct shall be liable to any one or more of the following penalties—

- (a) a caution or reprimand, or both such caution and reprimand;
- (b) in the case of a person who is registered—
 - (i) suspension for a specified period from practising as a land surveyor, land surveyor-in-training or land survey technician, as the case may be; or
 - (ii) cancellation of his registration as a land surveyor, non-practising land surveyor, land surveyor-in-training or land survey technician and the removal of his name from the Register;
- (c) in the case of a person who was registered, disqualification from being registered as a land surveyor, non-practising land surveyor, land surveyor-in-training or land survey technician, as the case may be, for a specified or an indefinite period;

and may, in addition, be ordered by the Council to pay all or part of the costs or expenses of or incidental to the holding of the inquiry.

(2) If the misconduct of which a person has been found guilty relates to an incorrect or defective survey carried out by him, the Council may, in addition to any penalty or order which may be imposed in terms of subsection (1), order such person within a reasonable time to be specified by the Council in the order—

- (a) to correct the incorrect or defective survey in such manner as the Surveyor-General may direct in terms of the Land Survey Act [*Chapter 20:12*] or, at his own expense, to procure compliance with such order by a person registered as a land surveyor; and
- (b) if necessary, to procure the rectification of any title deed affected by such incorrect or defective survey in terms of the Deeds Registries Act [*Chapter 10:05*].

(3) Where an order given in terms of subsection (2) is not complied with, the Council may employ a person registered as a land surveyor under this Act to comply with the order and the costs so incurred shall become a debt due to the Council by the person to whom the order was given.

(4) In subsection (1)—

“registered” means registered as a land surveyor, non-practising land surveyor, land surveyor-in-training or land survey technician, as the case may be, in terms of this Act.

26 Powers of Council in respect of misconduct outside Zimbabwe

(1) The Council may, where it thinks fit, inquire into any complaint, charge or allegation of improper or disgraceful conduct committed or alleged to have been committed outside Zimbabwe by any person who is registered under, or is serving a suspension or disqualification imposed in terms of, this Act.

(2) Where, after an inquiry made in terms of subsection (1), the Council decides that the person in respect of whom the inquiry was made is guilty of conduct which, if committed within Zimbabwe, would have rendered him liable to any of the penalties specified in section *twenty-five* the Council shall direct the Registrar to call upon such person, by registered letter, to show cause within a period specified in that letter, which period shall not be less than thirty days as from the date of its postage, why the Council should not impose on him any of the penalties specified in section *twenty-five*.

(3) At the expiration of the period referred to in subsection (2), the Council may, unless cause to the contrary to the satisfaction of the Council is previously shown, impose on the person concerned any of the penalties specified in section *twenty-five* and direct the Registrar to notify such person accordingly by registered letter and, in that letter, to advise him of his rights under section *thirty*.

PART V

GENERAL

27 Initial and annual registration fee

(1) The Council may from time to time determine and charge a fee to be known as the initial registration fee which shall be payable on application for registration by any person who wishes to be registered as a land surveyor, land surveyor-in-training or land survey technician, as the case may be.

(2) The Council may from time to time determine and levy upon every land surveyor, non-practising land surveyor, land surveyor-in-training and land survey technician an annual registration fee, which fee shall be in addition to the initial registration fee payable in terms of subsection (1):

Provided that the Council may—

- (a) determine and levy a different annual registration fee in respect of any of the four categories of persons upon whom an annual registration fee is leviable in terms of this section;
- (b) by unanimous decision, exempt any land surveyor or non-practising land surveyor, *honoris causa*, from paying such annual registration fee without forfeiture of his registration.

28 Issue of duplicate certificates of registration

On an application by any person who is registered under this Act, the Council may direct the Registrar to issue to the applicant concerned a duplicate certificate of registration—

- (a) if the Council is satisfied as to the identity of the applicant; and
- (b) on production by the applicant of an affidavit certifying that the certificate of registration has been lost or destroyed; and
- (c) on payment by the applicant of the appropriate fee, if any, prescribed by the Council.

29 Restoration to Register

(1) Upon written application by the person concerned and subject to any conditions which the Council may impose by rules or otherwise, the Council may—

- (a) revoke the cancellation of registration; or
- (b) notwithstanding that the period of suspension or disqualification has not expired or that the disqualification was for an indefinite period, terminate the suspension or disqualification from registration;

imposed against any person in terms of this Act.

(2) Upon the revocation of the cancellation of registration or the termination of a suspension or disqualification in terms of subsection (1), the Registrar shall restore to the Register the name of the person concerned and comply with section *thirty-one*.

30 Appeals against decisions of Council

(1) Subject to this section, any person who is aggrieved by a decision of the Council—

- (a) to reject an application for registration as a land surveyor, non-practising land surveyor, land surveyor-in-training or land survey technician, as the case may be; or
- (b) to impose any penalty which the Council is empowered to impose under this Act; or
- (c) to order the cancellation of the registration of any person registered under this Act;

may appeal to the High Court against such decision if, within thirty days of being notified of the decision, he lodges a notice with the Council of his intention so to appeal:

Provided that a person who fails to lodge an objection with the Council against a decision of the Council rejecting his application for registration within the time stipulated in paragraph (a) of subsection (5) of section *sixteen* shall not be entitled to bring an appeal before the High Court without leave of the court being granted upon good cause being shown.

(2) Upon an appeal in terms of subsection (1) the High Court may confirm, vary or set aside the decision appealed against or give such other decision as in its opinion the Council ought to have given, and make such order as to costs as it deems fit:

Provided that—

- (i) a decision of the Council following an inquiry in terms of section *twenty-three* shall not be set aside by reason only of an irregularity which did not embarrass or prejudice the appellant in answering a charge or in the conduct of his defence;
- (ii) the High Court shall not substitute a penalty more severe than the penalty imposed by the Council.

(3) The Registrar shall comply with—

- (a) any decision of the High Court made in terms of this section in so far as that decision affects the information contained or to be contained in the Register; and
- (b) section *thirty-one* so far as it is appropriate to do so, in relation to any decision of the High Court made in terms of this section.

31 Registrar to give information and to comply with directives of Council, etc.

(1) Upon the registration of a person as a land surveyor, non-practising land surveyor, land surveyor-in-training or land survey technician, the Registrar shall, forthwith and in writing, notify the Surveyor-General and every person registered as a land surveyor, non-practising land surveyor, land surveyor-in-training or land survey technician, of the name and address of that person and the date of his registration.

(2) The Registrar shall, forthwith and in writing, notify the Surveyor-General and every person registered as a land surveyor, non-practising land surveyor, land surveyor-in-training or land survey technician, of any changes recorded in the Register affecting the registration of a person—

- (a) whose registration has been cancelled, together with the date of such cancellation and, if such cancellation has been made at the request of the person concerned, that fact shall be slated;
- (b) upon whom any penalty referred to in section *twenty-five* has been imposed, together with the date of such imposition and the nature of the penalty;
- (c) whose name has been restored to the Register in terms of section *twenty-nine* together with the date of such restoration;
- (d) whose penalty under subsection (1) of section *twenty-three* has been set aside or varied by the High Court in terms of subsection (2) of section *thirty* together with the date of such setting aside or such variation.

- (3) The Registrar shall comply with—
- (a) any directive issued to him by the Council in the performance of its functions under this Act; and
 - (b) any decision of the Council made in terms of this Act in so far as that decision affects the information contained or to be contained in the Register; and
 - (c) generally with any other provision of this Act in so far as it may affect the information contained or to be contained in the Register.

32 Limitation of actions against Council, its members and officials

(1) No action shall be against the Council or any member or alternate member or any official of the Council in respect of anything done in good faith and without negligence in accordance with this Act.

(2) Without derogation from the generality of subsection (1), the Council shall not be liable for any loss of earnings by a person as a result of any *bona fide* imposition of a penalty against him by the Council in accordance with Part IV.

33 Powers of Council in respect of its finances

The Council shall have power to—

- (a) use any part of its funds for the payment of any legal costs incurred by the Council or any member thereof by reason of the carrying out of its functions under this Act;
- (b) use any part of its funds either independently or in co-operation with any other body for providing scholarships, bursaries, prizes, travelling grants or other grants for the training of land surveyors or students of land surveying or for any other matter incidental to the promotion or study of land surveying;
- (c) invest all or any portion of the moneys of the Council, which are not required for immediate use, in such manner as may be approved by the Council;
- (d) recover, by action in a competent court, any costs or expenses ordered in terms of subsection (1) of section *twenty-five* to be paid by a person who is or was registered as a land surveyor, non-practising land surveyor, land surveyor-in-training or land survey technician under this Act, or any debt due to the Council in terms of subsection (3) of section *twenty-five*.

34 Rules of Council

(1) Subject to the approval of the Minister, the Council may by statutory instrument make rules as to—

- (a) the manner in which complaints of charges brought against a land surveyor, non-practising land surveyor, land surveyor-in-training or land survey technician who is or was registered under this Act shall be lodged;
- (b) the method of summoning an accused person and the penalties for failure or refusal on the part of any such person to attend when summoned or for interrupting the proceedings:
Provided that no such penalty shall exceed a fine of level four or imprisonment for a period of three months or both such fine and such imprisonment;
[Paragraph as amended by section 4 of Act No. 22 of 2001]
- (c) any other matter incidental to the holding of an inquiry under section *twenty-three*;
- (d) the travelling, subsistence and other allowances payable to members and the manner in which such allowances shall be determined and reviewed;
- (e) the manner of conducting the business of the Council and the procedure to be followed at the meetings of the Council;
- (f) the method in which members shall be elected in terms of section *four*;
- (g) the initial registration fees and the manner in which such fees shall be determined and reviewed;
- (h) the annual registration fees and the manner in which such fees shall be determined and reviewed;
- (i) the fees to be paid for the issue of duplicate certificates of registration and the manner in which such fees shall be determined and reviewed;
- (j) the fees to be paid by any member of the public who wishes to inspect the Register, and the manner in which such fees shall be determined and reviewed;
- (k) such other fees as the Council might impose and the manner in which such fees shall be determined and reviewed;
- (l) the form of certificates to be issued to persons registered under this Act;
- (m) the acts or omissions of which the Council may take cognizance under section *twenty-three*;
- (n) the qualifications required to be held for registration as a land survey technician;
- (o) the division of land survey technicians into classes according to their qualifications;
- (p) the work that may be performed for the purposes of the Land Survey Act [*Chapter 20:12*] by each class of land survey technicians or by a land surveyor-in-training on the instruction and guidance of a land surveyor, and the extent to which such work shall be supervised by such land surveyor;
- (q) generally, any matter—
 - (i) relating to the conduct of land surveyors, non-practising land surveyors, land surveyors-in-training and land survey technicians; or

(ii) which in the opinion of the Council is necessary or convenient to be prescribed for the purpose of carrying out its functions and exercising its powers under this Act.

(2) The Registrar shall furnish each land surveyor, non-practising land surveyor, land surveyor-in-training and land survey technician registered under this Act with a copy of the rules made under subsection (1) and, from time to time, with a copy of any amendment made to such rules.

FIRST SCHEDULE (Section 16)

DECLARATION

I, do
solemnly and sincerely declare that I will discharge the duties of a land surveyor carefully and without partiality, fear, favour or affection, and will conform to all regulations and rules defining those duties which are now in force, or shall hereafter be established by competent authority.,

Sign-
ed

Declared and signed
before me

at

this

day of

19

.....
Commissioner of Oaths.

(name of person summoned, his calling and registered address).

You are hereby summoned to appear at

..... (place),

upon the

day of

at

.....o'clock

before the Council of Land Surveyors established under the Land Surveyors Act [Chapter 27:06] to give evidence

respecting

.....
(if the person summoned is to produce any book, plan, record, document or thing, add:),
and you are required to bring with you

.....
specify the book, plan, record, document or thing required).

Given under the hand of the

of the Council this

day of

19.....

.....
Chairman/Registrar.*

Notes:

1. *Delete the inapplicable.

2. Failure to comply with the requirements of this summons without lawful excuse is an offence.

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