

## CHAPTER 27:18

### VALUERSACT

*Acts 5/1996, 22/2001 (s. 4); S.I. 206/1996, 262/2006.*

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Practical Experience Required for Registration.

**AN ACT to establish a Valuers Council; to provide for the registration of valuers and the regulation of the practice of valuers in Zimbabwe; and to provide for matters incidental to or connected with the fore-going.**

[Date of commencement: 1st February, 2006.]

## PART I

### PRELIMINARY

#### 1 Short title

This Act may be cited as the Valuers Act [*Chapter 27:18*].

[Short title amended by s.i. 262 of 2006]

#### 2 Interpretation

(1) In this Act—

“certificate of registration” means a certificate issued in terms of paragraph (a) of subsection (3) of section *twenty-two*;

“chairman” means the chairman of the Council and includes any member elected to act as chairman under subsection (4) of section *twelve*;

“Council” means the Valuers Council established by section *three*;

“employee”, in relation to a body corporate, includes a director;

“immovable property” includes a right in respect of or an interest in immovable property;

“member” means a member of the Council;

“Minister” means the Minister of Local Government, Public Construction and National Housing or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“prescribed”, unless otherwise specified, means prescribed in regulations made in terms of section *forty-five*;

“Register” means the Register of Valuers established in terms of subsection (1) of section *twenty-two*;

“registered” means registered as a valuer in terms of this Act;

“Registrar” means the Registrar of Valuers referred to in section *twenty-one*;

“valuation of immovable property” means the preparation of a written estimate of the value of any immovable property.

(2) Subject to this Act or any other enactment to the contrary, a person shall be deemed to be practising as a valuer for the purposes of this Act if on one or more occasions he undertakes the valuation of immovable property.

## PART II

### VALUERS COUNCIL

### **3 Establishment of Council**

There is hereby established a council, to be known as the Valuers Council, which shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of doing everything that bodies corporate may do by law.

### **4 Functions of Council**

It shall be the function of the Council to hold inquiries for the purposes of this Act and to do all things required to be done by the Council in terms of this Act and such other things as, in the opinion of the Council, are necessary for ensuring that the competence and conduct of valuers practising in Zimbabwe are of a standard sufficiently high for the protection of the public.

### **5 Composition of Council**

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

one shall be the chairman appointed by the Minister;

(b) one shall be appointed by the Minister from a list of three persons nominated to the Urban Councils Association of Zimbabwe; and

(c) one shall be appointed by the Minister from a list of three persons nominated by the Rural District Councils Association of Zimbabwe; and

(d) there shall be registered valuers elected by registered valuers in the manner prescribed; and (e) one shall be the person holding the office of Government Chief Valuation Officer, *ex officio*.

(2) If the registered valuers for any reason fail, neglect or refuse to elect the members referred to in paragraph (d) of subsection (1), the Minister may appoint those members.

(3) Where no nominations have been made in respect of the appointments referred to in paragraphs (a) and (b) of subsection (1) within such period as the Minister may determine, he may appoint any person to be a member of the Council, whether or not, in his opinion, the person so appointed is able to represent the views of the Urban Councils Association of Zimbabwe or the Rural District Councils Association of Zimbabwe, as the case may be.

(4) Any member appointed by the Minister in terms of subsection (2) or (3) shall be deemed, for the purposes of this Act, to have been duly appointed or elected to the Council in terms of subsection (1).

### **6 Vice-chairman of Council**

(1) There shall be a vice-chairman of the Council who shall be elected from amongst the members of the Council by members present at the first meeting of the Council and thereafter at the first meeting of the Council held after any vacancy in the office of vice-chairman, has occurred.

(2) If the chairman of the Council is for any reason unable to exercise his functions, the vice-chairman shall exercise the functions of the chairman.

### **7 Conditions of office of members**

(1) The members referred to in paragraphs (a) to (d) of subsection (1) of section *five* shall hold office for a period of three years:

Provided that, of the members first elected in terms of section *five*, one member, decided by the casting of lots, shall hold office for a period of one year.

(2) A member shall—

(a) hold office on such conditions; and

(b) be paid out of the funds of the Council such remuneration and allowances, if any; as the Minister, in consultation with the Council, may fix for members generally.

(3) A retiring member shall be eligible for re-election or re-appointment.

### **8 Disqualifications for election or appointment as member**

No person shall be elected or appointed as a member and no person shall be qualified to hold office as a member who—

(a) 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;

(b) has, within the period of five years immediately preceding the date of his proposed election or 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 constitute a criminal offence; and sentenced by a court to imprisonment for a term of six months or more, without the option of a fine, whether or not such sentence has been suspended, and has not received a free pardon; or (c) is a member of Parliament.

### **9 Vacation of office by member**

(1) 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 expiry of such shorter period as he and the Minister may agree; or
- (b) thirty days after the date he is sentenced by a court to imprisonment referred to in paragraph (b) of section *eight* after conviction of an offence referred to in that paragraph:

Provided that if, during the said period of thirty days, an application for a free pardon is made or an appeal is filed the question whether the member is to vacate his office shall not be determined until the final disposal of such application or appeal, whereupon the member shall forthwith vacate his office and his office shall become vacant unless he is granted a free pardon, his conviction is set aside, his sentence is reduced to a term of imprisonment of less than six months or a punishment other than imprisonment is substituted; or

- (c) if he becomes disqualified in terms of paragraph (a) or (c) of section *eight* to hold office as a member; or
- (d) if he is required in terms of section *ten* to vacate his office; or
- (e) in the case of a member referred to in paragraph (d) of subsection (1) of section *five*, if he ceases to be a registered valuer.

(2) The Minister, on the recommendation of the Council, may require a member to vacate his office if the Minister is satisfied that the member has been absent without the permission of the Council from three consecutive meetings of the Council, of which he has been given not less than seven days' notice, and that there was no just cause for the member's absence.

### **10 Minister may require member to vacate office**

The minister may require a member to vacate his office if the member—

- (a) has been guilty of conduct which renders him unfit to be a member; or
- (b) has ceased or failed to comply with the conditions of his office fixed by the Minister in terms of subsection (2) of section *seven*; or
- (c) is mentally or physically incapable of efficiently performing his duties as a member.

### **11 Filling of vacancies on Council**

(1) On the death of or vacation of office by a member, a new member to fill the vacancy until the expiry of the period during which the member would, but for his death or the vacation of his office, have continued in office shall be elected or appointed in accordance with section *five*.

(2) If a member is granted leave of absence in excess of sixty days by the Council, the Council may co-opt a registered valuer to fill the vacancy during his absence.

### **12 Meetings and decisions of Council**

(1) The Council shall hold its first meeting on such date and at such place as the Minister may specify and thereafter the Council shall meet together for the dispatch of business and adjourn, close and otherwise regulate its meetings and proceedings as it thinks fit:

Provided that the Council shall meet not less than once in each calendar year.

(2) The chairman may himself at any time and shall, at the request in writing of not less than two members, convene a special meeting of the Council, which meeting shall be convened for a date not sooner than seven days nor later than thirty days after receipt of such request.

(3) A notice convening a special meeting of the Council shall state the purpose for which the meeting is to be convened.

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

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

(5) Four members shall form a quorum at any meeting of the Council.

(6) All acts, matters or things authorized or required to be done by the Council may be decided by a majority vote at a meeting of the Council at which a quorum is present.

(7) At all meetings of the Council each member present shall have one vote on a question before the Council and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to a deliberative vote.

(8) Any proposal circulated among members and agreed to in writing by a majority of all members shall be of the same effect as a resolution passed at a duly constituted meeting of the Council 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.

### **13 Validity of decisions and acts of Council**

No decision or act of the Council or act done under the authority of the Council shall be invalid only because—

- (a) the Council did not consist of the full number of members for which provision is made in section *five*; or
- (b) a disqualified person acted as a member of the Council at the time the decision was taken or the act was done or authorized.

## **14 Funds of Council**

The funds of the Council shall consist of—

- (a) fees and other moneys payable to the Council in terms of this Act; and
- (b) such moneys as may be payable to the Council from moneys appropriated for that purpose by Parliament; and
- (c) any moneys to which the Council may become entitled, whether by way of grants, loans or otherwise; and
- (d) such other moneys and assets as may vest in or accrue to the Council, whether in the exercise of its functions or otherwise.

## **15 Expenses of Council**

Subject to this Act, the expenses incurred by the Council in the exercise of its functions in terms of this Act shall be met out of the funds of the Council.

## **16 Accounts of Council**

(1) The Council shall keep proper books of account and other records relating thereto.

(2) The accounts of the Council shall be audited at least once in each calendar year by a public auditor registered in terms of the Public Accountants and Auditors Act [*Chapter 27:12*], and appointed by the Council.

## **17 General meetings of registered valuers**

(1) The Council shall at least once in each calendar year convene a general meeting of all registered valuers.

(2) The Council shall ensure that not less than fourteen days' notice in writing of a general meeting of registered valuers is sent to each registered valuer, which notice shall set out the matters to be dealt with at that general meeting.

(3) The Council shall submit to the annual general meeting called in terms of subsection (1) a report setting out the activities of the Council since the previous annual general meeting.

## **18 Inquiries by Council**

(1) The Council shall have power to hold inquiries for the purposes of the Act and for such other purposes as the Minister may approve.

(2) For the purposes of holding an inquiry in terms of subsection (1), the Council shall have the same powers, rights and privileges as are conferred upon a commissioner by the Commissions of Inquiry Act [*Chapter 10:07*], other than the power to order a person to be detained in custody, and sections 9 to 13 and section 15 of that Act shall apply, mutatis mutandis, in relation to an inquiry held in terms of subsection (1) and to any person summoned to give evidence or giving evidence at the inquiry.

(3) The Council shall have power—

- (a) if it is reasonably necessary for the detection of any offence in terms of this Act or any misconduct on the part of a registered valuer, to investigate at all reasonable times and without giving prior notice any person practising or suspected to be practising as a valuer;
- (b) to require any registered valuer or any person reasonably suspected to be practising as a valuer to provide the Council with such information as the Council may require in the exercise of its functions under this Act.

(4) For the purpose of an investigation in terms of this section, the Council may appoint in writing an investigator, approved either generally or specifically for the purpose by the Minister, with authority to— (a) enter any premises; and

(b) question any persons employed on the premises; and

(c) inspect, make copies of and take extracts from any books, records or other documents; connected with or related to the practice of the person investigated and report to the Council:

Provided that—

- (i) an investigator shall not enter any premises without the consent of the owner or occupier unless there are reasonable grounds for believing that the entry is necessary for the prevention, investigation or detection of an offence;
- (ii) if the person investigated is not a registered valuer, the investigator shall notify the officer commanding the police district in which the premises of such person are situated of his intention to enter the premises, and shall be accompanied by a police officer.

(5) If any investigation conducted in terms of this section results in the person investigated being— (a) convicted of an offence in terms of the Act; or

(b) disciplined after an inquiry held in terms of Part V; the Council shall be entitled to recover from such person all or any part of the costs of the investigation as it may determine.

(6) Any person who hinders, obstructs or makes any false representation to an investigator under subsection (3) or (4) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

## **19 Committees of Council**

(1) For the better exercise of its functions, the Council may establish committees to which it may appoint as members such registered valuers as it may consider expedient.

(2) The Council may assign to a committee referred to in subsection (1) such of the Council's functions under this Act as the Council considers expedient.

(3) The Council shall not be treated as having divested itself of any function assigned to a committee referred to in subsection (1) and the Council may vary or revoke any decision of a committee made in the exercise of that function.

## **20 Recovery by Council of costs and fees**

The Council may by proceedings in a competent court recover—

- (a) any expenses, costs or penalties ordered to be paid by any person or registered valuer in terms of subsection (5) of section *eighteen* or section *thirty-one* or *thirty-two*, as the case may be;
- (b) any fee prescribed in terms of paragraph (a) or (b) of subsection (2) of section *forty-five* which is not paid to the Council within the prescribed time.

## **PART III**

### **REGISTRAR AND REGISTER OF VALUERS**

## **21 Registrar of Valuers**

(1) The Minister shall, in consultation with the Council, appoint a person, to be known as the Registrar of Valuers, who shall exercise the powers conferred and perform the duties imposed on the Registrar by or in terms of this Act.

(2) The Registrar shall—

- (a) hold office on such conditions; and
- (b) be paid out of the funds of the Council such remuneration and allowances, if any; as the Minister may, in consultation with the Council, fix.

## **22 Registration of valuers and certificates of registration**

(1) Subject to this Part, the Registrar shall establish and maintain a Register of Valuers.

(2) It shall be the duty of the Registrar to—

- (a) enter in the Register the names and addresses and such other particulars as may be prescribed of each person whom the Council directs, in terms of subsection (1) of section *twenty-nine*, shall be registered; and
- (b) make in the Register any necessary alterations in the name, address and prescribed particulars of a registered valuer; and
- (c) delete from the Register the name of a registered valuer—
  - (i) who dies or ceases to practice as a valuer; or
  - (ii) who ceases to be ordinarily resident in Zimbabwe; and
- (d) when required to do so by or under this Act or in pursuance of a lawful direction of the Council or an order of the Administrative Court—
  - (i) mark in the Register the registration of a valuer or, as the case may be, the suspension from practice of a registered valuer; and
  - (ii) cancel from the Register the registration of a registered valuer;

and generally, in connection with the Register, to comply with this Act and any lawful direction of the Council or order by the Administrative Court.

(3) If, in the performance of the duties imposed upon him by or under this Act, the Registrar—

- (a) registers an applicant, he shall issue to him a certificate of registration;
- (b) cancels the registration of a registered valuer or marks in the Register the suspension from practice of a registered valuer, he shall notify him in writing accordingly.

## **23 Offences in connection with Register, etc. A**

person who—

- (a) makes or causes to be made an unauthorized entry or alteration or deletion in the Register or a certified copy thereof or extract therefrom or on a certificate of registration; or
- (b) procures or attempts to procure for himself or another person registration or a certificate of registration by means of fraud, a false representation or the concealment of a material fact; or
- (c) 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
- (d) wilfully destroys or injures or renders illegible or causes to be destroyed, injured or rendered illegible an entry in the Register; or
- (e) without the permission of the holder, wilfully destroys, injures or renders illegible or causes to be destroyed, injured or rendered illegible 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 one year or to both such fine and such imprisonment.

## 24 Register as evidence

A certificate signed by the Registrar—

- (a) that the name of a person has been entered in the Register shall be prima facie evidence that the person is a registered valuer;
- (b) that the name of a person has been deleted from or does not appear in the Register shall be prima facie evidence that the person is not a registered valuer;
- (c) that a registered valuer has been suspended from practice as such for a period specified in that certificate shall be prima facie evidence that the person has been suspended from practice for that period.

## PART IV

### REGISTRATION

## 25 Qualifications of registration

- (1) Subject to this Act, no person shall practise as a valuer unless he is registered as such under this Act.
- (2) For the purposes of this Part, a person shall be qualified to be registered as a valuer if—
  - (a) he has attained the age of eighteen years; and
  - (b) holds a professional qualification which is recognized by the Council in terms of section *twenty-six*; and
  - (c) he meets the requirements relating to practical experience specified in the Schedule.

## 26 Professional qualifications recognised by Council

For the purpose of registering a person in terms of this Part, the following qualifications shall be recognized by the Council—

- (a) professional membership of an institute which the Minister may, after consultation with the Council, prescribe; or
- (b) a degree in valuation and estate management, land economics or the equivalent, obtained from a university, polytechnic or other institution of higher learning which the Minister may, after consultation with the Council, prescribe; or
- (c) any other diploma or examination which the Minister may, after consultation with the Council, prescribe.

## 27 Application for registration

(1) An application for registration shall be made to the Registrar and shall be accompanied by such documents and information, including evidence of identity, and such fee, as may be prescribed.

(2) The Registrar may and, when so directed by the council, shall require a statement made in an application for registration or in connection with an application for registration to be supported by an affidavit.

## 28 Applications for registration to be referred to Council

The Registrar shall refer every application for registration, together with the documents and information mentioned in subsection (1) of section *twenty-seven* and any report he may wish to make on the application, to the Council.

## 29 Procedure by Council in connection with application for registration

(1) If an applicant is qualified in terms of section *twenty-five* and is a fit person to be registered, the Council shall direct the Registrar to register the applicant.

(2) If the Council decides that an applicant is not a fit person to be registered by reason of—

- (a) his physical or mental health; or
- (b) the fact that he is not of good character or reputation; or
- (c) any conduct of his which, if he had been registered, would have constituted unprofessional, dishonourable or unworthy conduct; the Council shall give notice to the Registrar and the applicant in writing of its decision and of the reason for its decision.

(3) If an applicant who has been notified by the Council of a decision of the Council referred to in subsection (2) fails to lodge notice with the Registrar of his intention to appeal against the decision to the Administrative Court in terms of Part VI, or, having lodged such a notice, withdraws the notice or abandons his appeal, the Registrar shall reject his application for registration and notify him in writing accordingly.

## 30 Provisional registration

Notwithstanding anything to the contrary contained in this Part, where an application for registration has been submitted to the Registrar and it is unlikely that the Council will meet for the dispatch of business within three months of the date of submission of the application, the Registrar, in consultation with the chairman, if satisfied that the qualifications and documents or particulars submitted in terms of section *twenty-seven* are in accordance with the requirements of this Part, shall register the applicant on such terms and conditions as may be prescribed.

## PART V

### CANCELLATION AND SUSPENSION OF REGISTRATION AND DISCIPLINARY POWERS OF COUNCIL

## 31 Disciplinary powers of Council

(1) If, after due inquiry, the Council decides that a registered valuer—

- (a) is not a suitable person to remain registered; or
- (b) has been guilty of unprofessional, dishonourable or unworthy conduct or negligence in his capacity as a valuer;

the Council may do one or more of the following—

- (i) direct that his registration be cancelled or that he be suspended from practice as a valuer for a period determined by the Council;
- (ii) order him to pay the expenses incurred in holding the inquiry and expenses incidental to the inquiry or any part of those expenses;
- (iii) impose a penalty, not exceeding an amount equivalent to a fine of level six, which penalty shall be payable to the Council;
- (iv) censure him;
- (v) caution him;

and the Council shall give notice thereof and the reasons for its decision to the Registrar and the registered valuer concerned.

(2) If a registered valuer who has been given notice of a direction of the Council referred to in subparagraph (i) of subsection (1) fails to lodge notice with the Registrar of his intention to appeal to the Administrative Court in terms of Part VI or, having lodged such notice, withdraws the notice or abandons his appeal, the Registrar shall cancel his registration or, as the case may be, mark his suspension from practice in the Register for the period determined by the Council.

(3) Where the Council makes a direction in terms of subparagraph (i) of subsection (1), it may further direct that the valuer or former valuer concerned, as the case may be, shall not, for such period as it shall specify—

- (a) be employed in any capacity by any registered valuer or by any company or partnership referred to in section *thirty-nine*; or
- (b) hold, or attempt to obtain, any financial interest in any company or partnership referred to in section *thirty-nine*.

(4) Any registered valuer or other person who, during the period in which a direction in terms of subsection (3) is in force—

- (a) employs in any capacity the person in respect of whom the direction was made; or
- (b) permits the person in respect of whom the direction was made to obtain or hold any financial interest in a company or partnership referred to in section *thirty-nine*;

shall be guilty of an offence unless he shows that he was not aware of the existence of the direction or that the direction referred to the person who was employed by him or who was permitted to obtain or hold the financial interest, as the case may be.

(5) A person guilty of an offence in terms of subsection (4) shall be liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

### **32 Persons employed by valuers**

(1) If, after due inquiry, the Council decides that a person who is not a registered valuer but who acts as a director of a company or a partner in a partnership referred to in section *thirty-nine*, or who is employed by such a company or partnership—

- (a) is not a suitable person to perform the work of a valuer or to be associated with a company or partnership which is practising as a valuer; or
- (b) has been guilty of conduct which would have constituted unprofessional, dishonourable or unworthy conduct or negligence if such person had been a registered valuer;

the Council may do one or more of the following—

- (i) order that such person shall not in any capacity participate in or have any financial interest in any company or partnership referred to in section *thirty-nine* or be employed by any such company or partnership for such period as the council may determine;
- (ii) order him to pay the expenses incurred in holding the inquiry and any expenses incidental to the inquiry or any part of those expenses;
- (iii) impose a fine not exceeding five thousand dollars, which shall be payable to the Council; (iv) censure him;
- (v) caution him;

and the Council shall give notice thereof and the reasons for its decision to the Registrar, the person concerned and the valuer or company or partnership concerned, as the case may be, by whom such person was employed or associated at the time of the order.

(2) No person in respect of whom an order has been made in terms of subparagraph (i) of subsection (1) shall, unless the Council otherwise directs, during the period in which the order is in force—

- (a) be employed in any capacity by any registered valuer or by any company or partnership referred to in section *thirty-nine*; or



(b) hold, or attempt to obtain, any financial interest in any company or partnership referred to in section *thirty-nine*.

(3) Any registered valuer or other person who, during the period in which an order in terms of subparagraph (i) of subsection (1) is in force—

(a) employs in any capacity the person in respect of whom the direction was made; or

(b) permits the person in respect of whom the direction was made to obtain or hold any financial interest in a company or partnership referred to in section *thirty-nine*;

shall be guilty of an offence unless he shows that he was not aware of the existence of the direction or that the direction referred to the person who was employed by him or who was permitted to obtain or hold the financial interest, as the case may be.

(4) A person guilty of an offence in terms of subsection (3) shall be liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

### **33 Exercise of disciplinary powers by Council on conviction of offence: court to forward evidence**

(1) A registered valuer, or any person referred to in subsection (1) of section *thirty-two* who has been convicted, inside or outside Zimbabwe, of an offence shall be liable to be dealt with by the Council in accordance with this Part if the Council is of the opinion that the offence constitutes unprofessional, dishonourable or unworthy conduct or negligence.

(2) The Council may, if it thinks fit, on proof before it of a conviction referred to in subsection (1) and without hearing further evidence, deal with the convicted person in accordance with this Part:

Provided that the convicted person shall be afforded an opportunity of tendering in writing or in person, as he may elect, an explanation to the Council in extenuation of his conduct.

(3) Whenever, after the termination of proceedings before a court in Zimbabwe, it appears to the court that there is prima facie evidence of disgraceful conduct on the part of a registered valuer or any person referred to in subsection (1) of section *thirty-two*, the court shall direct that a copy of the record of the proceedings or a copy of such portion of the proceedings as is material to the issue shall be transmitted to the Council.

### **34 Failure to pay fees**

(1) If a registered valuer fails to pay any annual fee referred to in paragraph (a) of subsection (2) of section *forty-five* by the 31st March of the year in which it becomes due and payable, his registration shall be suspended as from the date such fee became due and payable, until it is paid.

(2) Except on good cause shown to the Council in writing by the person concerned, the Registrar shall cancel the registration of a valuer twelve months after his suspension in terms of subsection (1).

### **35 Suspension because of sequestration**

Whenever the estate of any registered valuer is sequestrated or assigned, the registration of such valuer shall be suspended until the Council, for good cause shown, orders the removal of the suspension.

## **PART VI**

### **APPEALS**

### **36 Appeals against decisions of Council**

(1) Any person who is aggrieved by any decision, direction, order or action of the Council in terms of section *twenty-nine*, *thirty-one* or *thirty-two*, may appeal against such decision, direction, order or action to the Administrative Court.

(2) A notice of appeal in terms of this section shall be lodged with the Registrar of the Administrative Court and the Registrar within thirty days of the date on which he is given by the Council notice of the decision, direction, order or action appealed against.

(3) The Registrar shall furnish copies of a notice of appeal lodged in terms of this section to the Council and the Minister.

(4) On an appeal in terms of this section, the Administrative Court may confirm, vary or set aside the decision, direction, order or action 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 sees fit: Provided that—

(i) a decision, direction, order or action of the Council following an inquiry in terms of section *thirty-one* or *thirty-two* shall not be set aside solely because of an irregularity which did not embarrass or prejudice the appellant in answering a charge or in the conduct of his defence;

(ii) the Administrative Court shall not substitute a penalty more severe than the penalty imposed by the Council.

(5) The Council shall comply with any decision of the Administrative Court made in terms of this section.

(6) The Administrative Court Act [*Chapter 7:01*], shall apply in relation to the composition, procedure and powers of the Administrative Court on an appeal in terms of this section.

## **PART VII**

### **GENERAL**

### 37 Offences by or in respect of unregistered persons

(1) Subject to this Act, any—

- (a) person who, not being registered, carries on business as a valuer, or describes himself or allows himself to be described or holds himself out as a valuer; or
- (b) company or partnership which, without the written permission of the Council, practises or carries on business as a valuer under any personal name which is not the name of a registered valuer who is or was a principal, assistant or working partner of the company or partnership concerned; shall be guilty of an offence and be liable to—
  - (i) a fine not exceeding level eight or the amount of any remuneration accruing to the convicted person in respect of the conduct which constituted the offence, whichever amount is the greater; or
  - (ii) imprisonment for a period not exceeding one year; or
  - (iii) both the fine referred to in subparagraph (i) and the imprisonment referred to in subparagraph (ii).

(2) A court of a magistrate shall, notwithstanding anything to the contrary contained in the Magistrates Court Act [*Chapter 7:10*], have jurisdiction to impose any penalty for a contravention of subsection (1).

(3) A conviction for a contravention of subsection (1) shall not be a bar to a further prosecution or prosecutions for the continuance of the offence.

### 38 Persons not regarded as practising as valuers

For the purposes of this Act, the following persons shall not be regarded as practising or carrying on business as a valuer—

- (a) a person employed by the State or a local authority whilst he is working under the direction and control of a registered valuer in the service of the State or the particular local authority;
- (b) a person in the *bona fide* employment of a registered valuer whilst he is working under the direction and control of a registered valuer who is employed full-time in that capacity;
- (c) a person in the *bona fide* employment of a company or partnership referred to in section *thirty-nine* whilst he is working under the direction of a principal or an assistant referred to in that section;
- (d) a person in the *bona fide* employment of a building society, registered in terms of the Building Societies Act [*Chapter 24:02*], whilst he is working under the direction and control of a registered valuer who is employed full-time in that capacity;
- (e) a member of the Quantity Surveyors Division of the Royal Institution of Chartered Surveyors or the Zimbabwe Institute of Quantity Surveyors in the course of his practice as such.

### 39 Special provisions relating to companies and partnerships

A company or partnership may, notwithstanding section *thirty-seven*, practise as or describe itself or hold itself out or allow itself to be held out as a valuer if—

- (a) the business of the company or partnership, in so far as it relates to valuation, is under the direct control and management of a principal who—
    - (i) is a registered valuer; and
    - (ii) does not act at the same time in a similar capacity for any other company or partnership or on his own behalf;
- and
- (b) in every premises where the business referred to in paragraph (a) is carried on which is not personally conducted by the principal referred to in paragraph (a), such business is conducted under the direction of that principal by an assistant who is a registered valuer.

### 40 Supervision of employees A

registered valuer—

- (a) who employs any person who is not a registered valuer in the work of a valuer; or
- (b) under whose direction and control an employee referred to in paragraph (a) or (b), as the case may be, of section *thirty-eight* is working; shall supervise the work of that employee and, if an order in terms of subsection (1) of section *thirty-two* is made in respect of that employee, the registered valuer concerned shall be deemed to be guilty of negligence in his capacity as a valuer, unless he proves that—
  - (i) he did not connive at the unsuitability of the employee; or
  - (ii) he took all reasonable steps to prevent the conduct of the employee;

as the case may be, in respect of which the order was made.

### 41 Notice of registration, order, cancellation, suspension, etc.

(1) Subject to subsection (3), the Council shall cause notice to be given in the *Gazette* and may give notice to all registered valuers of—

- (a) the registration of any valuer; or
- (b) the cancellation or suspension of any person's registration as a valuer.

(2) Subject to subsection (3), the Council shall give notice to all registered valuers of any order made in terms of subsection (1) of section *thirty-two*.

(3) No notice in terms of subsection (1) or (2) shall be given of any cancellation, suspension or order until the time for noting an appeal against any such cancellation, suspension or order has elapsed or, if any such appeal has been lodged, it is withdrawn or abandoned or the cancellation, suspension or order has been confirmed on appeal or review.

#### **42 Information to be notified to Registrar**

(1) Any person practising or carrying on business as a valuer shall, in accordance with subsection (2), give notice to the Registrar in writing— (a) of the fact that he is doing so; and

(b) of the name or style under which such practice or business is being conducted; and

(c) of the address or addresses, as the case may be, at which such practice or business is being conducted; and

(d) in the case of a company, of the names and residential addresses of all directors; and

(e) of the names of all registered valuers who are directors, partners or employees of the practice or business; and

(f) of the name of the employee or working partner, as the case may be, referred to in paragraph (a) of section *thirty-nine*; and

(g) of the names of all employees who will perform the work of a valuer.

(2) The notification required by subsection (1) shall be made to the Registrar within thirty days of any person commencing practice or business, and thereafter annually at the time when the annual registration fee prescribed in terms of paragraph (a) of subsection (2) of section *forty-five* becomes due.

(3) A person referred to in subsection (1) shall give notice to the Registrar in writing of any change in the information which has been given to the Registrar in terms of subsection (1) within fourteen days of such change.

#### **43 Remuneration not recoverable in certain circumstances**

No remuneration shall be recoverable in any court in respect of any act pertaining to the practice of a valuer when performed by a person—

(a) who was required in terms of this Act to be registered and who was not registered at the time; or (b) whose employment was at the time of the act, prohibited in terms of this Act.

#### **44 .....**

[Section repealed by section 4 of Act 22 of 2001]

#### **45 Regulations and rules**

(1) The Minister may by regulation prescribe all matters which by this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

(2) Regulations made in terms of subsection (1) may provide for—

(a) the fees which shall be payable by applicants for registration, the fees payable on registration and annual fees payable by persons so long as they remain registered valuers;

(b) the issue of certificates and duplicate certificates of registration and the fees payable in connection therewith;

(c) the cancellation of certificates of registration of persons who are no longer registered and the delivery of such certificates to the Registrar for that purpose;

(d) the provisional registration of persons before their applications for registration are referred to the Council and the cancellation of provisional registrations;

(e) the deletion from the Register of entries made in error or through fraudulent representations or concealment of material facts or in circumstances not authorized by law;

(f) the notification to the Registrar of changes of address and prescribed particulars of registered valuers;

(g) the powers, rights and privileges of the Council in connection with any matter which is not the subject of an inquiry;

(h) the method by which members shall be elected for the purposes of section *five*.

(i) penalties for contravention of the regulations :

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.

(3) The fees to which the provisions of paragraphs (a) and (b) of subsection (2) relate shall be paid to the Council.

(4) Subject to subsection (5), the Council may make rules providing for—

(a) the rules of conduct to be observed by registered valuers, including the acts or omissions by a registered valuer which shall be treated as negligence or unprofessional, dishonourable or unworthy conduct; (b) a minimum scale of fees to be charged by registered valuers in their practise as such.

(5) Nothing in any rules providing for the matters referred to in paragraph (a) of subsection (4) shall be construed as precluding the Council from—

- (a) holding an inquiry into an allegation of unprofessional, dishonourable or unworthy conduct which is not an act or omission specified in those rules; or
- (b) exercising the powers conferred upon the Council by subsection (1) of section *thirty-one* in relation to a registered valuer found guilty by the Council of such unprofessional, dishonourable or unworthy conduct referred to in paragraph (a); or
- (c) exercising its discretion in terms of subsection (1) of section *twenty-nine* in deciding whether an applicant is a fit person for registration.

(6) Rules referred to in subsection (4) shall not have effect until they have been approved by the Minister and published in the *Gazette*.

#### **46 Alteration of Schedule**

The Minister, with the approval of the Council, may at any time, by statutory instrument, amend the Schedule.

#### **47 Registration of existing valuers**

(1) Notwithstanding anything to the contrary contained in Part IV, but subject to subsection (2), any person who—

- (a) on the date of commencement of this Act, is of or over the age of eighteen years; and
- (b) for a period of not less than three years immediately prior to the date of commencement of this Act, has been engaged in the valuation of immovable property in Zimbabwe which, in the opinion of the Council, is of sufficient variety and of a satisfactory nature and standard for purposes of registration as a valuer; and
- (c) satisfies the Council that he has an adequate knowledge of the principles which, in the opinion of the Council, are fundamental to the performance of the work of a valuer and an adequate knowledge of the application of those principles; shall be qualified to be registered as a valuer in terms of this Act.

(2) No application for registration in terms of subsection (1) shall be made or considered by the Council after the lapse of twelve months from the date of commencement of this Act.

#### **48 Committee to perform functions of Council pending composition of Council**

(1) The Minister shall appoint a committee of seven persons, including the person holding the office of Government Chief Valuation Officer, to perform the functions of the Council in accordance with this Act until such time as the Council is duly constituted in accordance with section *five*.

(2) Members of a committee referred to in subsection (1) shall be paid such remuneration and allowances, if any, as the Minister may fix.

### **SCHEDULE (Sections 25 (2) (c) and 46)**

#### **PRACTICAL EXPERIENCE REQUIRED FOR REGISTRATION**

- (1) Post-qualification employment in Zimbabwe for a period of not less than three years working under the supervision of a valuer and engaged for that period in the valuation of immovable property.
- (2) Employment outside Zimbabwe in such occupation and for such periods considered by the Council to provide substantially similar post-qualification experience as that required in Zimbabwe, coupled with at least six months' experience in a valuer's office in Zimbabwe in the valuation of immovable property:

Provided that the Council may, under special circumstances, waive the requirement of six months' experience in the case of a person in the service of the Government of Zimbabwe or a local authority.