

**SOUTH AFRICAN COUNCIL  
FOR PROFESSIONAL AND TECHNICAL SURVEYORS**

**PROFESSIONAL & TECHNICAL SURVEYORS' ACT**

**(Act Number 40 of 1984 (as amended))**



# PROFESSIONAL AND TECHNICAL SURVEYORS' ACT 40 OF 1984

ASSENTED TO 20 MARCH 1984  
DATE OF COMMENCEMENT: 10 SEPTEMBER 1984

(Afrikaans text signed by the State President)

as amended by

Professional Land Surveyors' and Technical Surveyors' Amendment Act 37 of 1986  
Professional Land Surveyors' and Technical Surveyors' Amendment Act 66 of 1987  
Professional Land Surveyors' and Technical Surveyors' Amendment Act 34 of 1993  
Regional and Land Affairs Second General Amendment Act 170 of 1993  
Proclamation 66 of 1995  
Abolition of Restrictions on the Jurisdiction of Courts Act 88 of 1996  
Land Survey Act 8 of 1997

## ACT

To provide for the establishment of a South African Council for Professional and Technical Surveyors, for the registration of professional surveyors, professional surveyors in training, surveyors, survey technicians and survey technicians in training, and for matters connected therewith.

### 1. Definitions

In this Act, unless the context otherwise indicates

**'annual fees'** means the annual fees or portion thereof determined by the council under section 7 (1) (g);

**'Chief Surveyor-General'** means the Chief Surveyor-General appointed in terms of section 1 of the Land Survey Act, 1927 (Act 9 of 1927);

**'council'** means the South African Council for Professional and Technical Surveyors established by section 2;

**'department'** means the Department of Regional and Land Affairs;

**'Director-General'** means the Director-General of the department;

**'education advisory committee'** means the Education Advisory Committee established by section 11;

**'in the service of the State'** means in the full-time employment of the Government, including any provincial administration;

**'Minister'** means the Minister of Regional and Land Affairs;

**'personal supervision'** has the meaning assigned thereto in section 49 of the Land Survey Act, 1927 (Act 9 of 1927), and, in relation to a survey technician and a survey technician in training, means supervision as prescribed;

**'prescribe'** means prescribe by rule made by the council under section 34, and 'prescribed' has a corresponding meaning;

**'professional company or close corporation'** means a company or close corporation referred to in section 27A or 27B, as the case may be;

**'professional land surveyor'** means a person registered as a professional surveyor in terms of section 20 (2) or deemed to be registered as such in terms of subsection (5) or (6) of the said section and whose name is entered in the register for professional land surveyors referred to in section 7 (4) (a);

**'professional surveyor'** means a person registered as such in terms of section 20 (2) or deemed to be registered as such in terms of subsection (5) or (6) of the said section;

**'professional surveyor in training'** means a person registered as such in terms of section 21;

**'register'** means a register mentioned in section 7 (4);

**'registrar'** means the person appointed as registrar under section 7 (1) (a);

**'registration fees'** means the registration fees determined by the council under section 7 (1) (g);

**'surveyor'** means a person registered as such in terms of section 22 (2) or (3);

**'survey technician'** means a person registered as such in terms of section 22 (2) or (3);

**'survey technician in training'** means a person registered as such in terms of section 23;

**'technical surveyor'** means a person registered in terms of section 22 and who is either a surveyor or a survey technician;

**'this Act'** includes any notice or rules issued or made under this Act.

## 2. Establishment of South African Council for Professional and Technical Surveyors

There is hereby established a juristic person to be known as the South African Council for Professional and Technical Surveyors

### 3. Constitution of Council and First Meeting

- (1) For the period from the commencement of this Act until a date determined by the State President by proclamation in the Gazette, the council shall consist of the persons who were members of the Central Council of Land Surveyors established by section 2 of the Land Surveyors' Registration Act, 1950 (Act 14 of 1950), as constituted immediately before that commencement, and three additional persons, co-opted by the first-mentioned persons from the members of the Institute of Topographical and Engineering Surveyors of South Africa, as members of the council.
- (2) After the date so determined the council shall consist of the following members appointed by the Minister, namely-
  - (a) one professional surveyor nominated by the Institute of Professional Land Surveyors of the Eastern Cape mentioned in section 40 (a);
  - (b) one professional surveyor nominated by the Institute of Professional Land Surveyors of the Western Cape mentioned in section 40 (b);
  - (c) one professional surveyor nominated by the Institute of Professional Land Surveyors of Natal;
  - (d) one professional surveyor nominated by the Institute of Professional Land Surveyors of the Orange Free State;
  - (e) two professional surveyors nominated by the Institute of Professional Land Surveyors of the Transvaal;
  - (f) one professional surveyor nominated by the education advisory committee, who shall be a professor or lecturer in surveying at a university which offers a degree course in surveying;
  - (g) two professional surveyors in the service of the State;
  - (h) one professional surveyor nominated by the Association of Air Survey Companies;
  - (i) three persons, each of whom shall be a professional or a technical surveyor, nominated by the Institute of Topographical and Engineering Surveyors of South Africa who ordinarily are resident and practise in the Republic;
  - (iA) two persons, each of whom shall be a professional or a technical surveyor, nominated by the Institute of Mining Surveyors of South Africa and who ordinarily are resident and practise in the Republic;
  - (j) one person nominated, after the election of the president of the council in terms of section 6 (1), by the body mentioned in paragraph (a), (b), (c), (d), (e), (f), (h), (i) or (iA) of this subsection which had nominated the member so elected as president, or, if the president was appointed as a member of the council in terms of paragraph (g) of this subsection, one professional surveyor in the service of the State; and
  - (k) one person appointed by reason of his knowledge and experience concerning public affairs and the practise of surveying
- (3) When any nomination in terms of subsection (2) (a), (b), (c), (d), (e), (f), (h), (i), (iA) or (j) becomes necessary, the body concerned shall at the request of the Director-General furnish the nomination or nominations required for appointment to the council, within a period of 60 days from the date of such request, failing which the Minister may appoint to be a member or members of the council in terms of that subsection any suitable person or persons in the place of the person or persons he would have appointed if the said body had not so failed to nominate a person or persons.
- (4) For every member of the council there shall be an alternate member appointed in the same manner as such member, and any alternate member so appointed shall act in the place of the member in respect of whom he has been appointed as alternate member, during such member's absence or inability to act as a member of the council:

Provided that-

- (a) such alternate member may with the consent of the council attend any meeting of the council and participate in the proceedings there when the member in respect of whom he has been appointed as alternate member is present at that meeting, but shall not have the power to vote at such meeting; and
- (b) where the member of the council in respect of whom such alternate member has been appointed is the president or vice-president of the council, and the president or vice-president, as the case may be, is not able to preside at any meeting of the council, the provisions of section 6(4) shall apply in respect of that meeting.
- (5) Every member of the council (excluding a member appointed in terms of paragraph (g) of subsection (2), who shall hold office for such period as the Minister may determine at that time of his appointment), shall be appointed for a period of two years, but shall on termination of the period for which he was appointed, continue to hold office for a further period not exceeding three months until his successor has been appointed.
- (6) If a member of the council dies or vacates his office before the expiration of his period of office, the Minister may, subject to the provisions of subsection (2) of this section and section 4 (1), appoint a person to fill the vacancy for the unexpired portion of the period for which such member was appointed.
- (7) Any member of the council whose period of office as a member of the council has expired, shall be eligible for re-appointment.
- (8)(a) The first meeting of the council shall be held at such time and place as the Minister may determine, and all subsequent meetings 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.
- (8)(b) The president of the council may at any time, and shall when requested to do so by a majority of the members of the council, call a special meeting of the council to be held at such time and place as the president may direct.
- (9) No action or decision taken by the council in the period between the election of the president and the appointment of the member mentioned in subsection (2) (j), shall be invalidated by reason only of the fact that the said member had not yet been appointed.

### 4. Qualifications of Members of Council and Circumstances under which they Vacate Office

- (1) No person shall be appointed as a member of the council-
  - (a) in terms of section 3 (2), or as an alternate to any such member in terms of section 3 (4), unless he is a South African citizen: Provided that the provisions of this paragraph shall not apply to a member appointed in terms of section 3 (2) (f) or an alternate to any such member appointed in terms of section 3 (4);
  - (b) in terms of section 3 (2) (a), (b), (c), (d), (e), (h), (i) or (iA), or as an alternate to any such member in terms of section 3 (4), unless he is a member of the body which nominated him;
  - (c) in terms of section 3 (2) (j), or as an alternate to any such member in terms of section 3 (4), unless he is a professional surveyor or, in the case of a person nominated by the body mentioned in section 3 (2) (i) or (iA), a professional or technical surveyor.
- (2) A member of the council or an alternate to such a member, as the case may be, shall vacate his office-
  - (a) if he resigns by written notice addressed to the registrar;
  - (b) if he becomes insolvent or assigns his estate for the benefit of, or compounds with, his creditors;
  - (c) if he is according to the law detained as a mentally ill person;
  - (d) if he is convicted of an offence and sentenced in respect thereof to imprisonment without the option of a fine;

- (e) if he is removed from an office of trust on account of improper conduct or if he has been guilty of conduct by reason of which he is in the opinion of the Minister, after consultation with the council, not a fit person to be a member of the council;
  - (f) if he is disqualified for registration in terms of this Act;
  - (g) if he, as a member, has been absent from three consecutive meetings of the council without its leave;
  - (h) if he was appointed in terms of section 3 (2) (a), (b), (c), (d), (e), (h), (i), (iA) or (j) and he ceases to be a member of the body which nominated him;
  - (i) if he ceases to be a professional surveyor or, in the case of a person nominated by the body mention in section 3 (2) (i) or (iA), ceases to be a professional or technical surveyor, as the case may be;
  - (j) if he was appointed by virtue of the fact that he is a professional surveyor in the service of the State and he ceases to be in such service;
  - (k) if he was appointed in terms of section 3 (2) (f) and he ceases to be a professor or lecturer in surveying at a university;
  - (l) if he was appointed in terms of section 3 (2) (a), (b), (c), (d), (e), (f), (h), (i), (iA) or (j) and the Minister terminates his appointment on the recommendation of the body which nominated him;
  - (m) if he was appointed in terms of section 3 (2) (g) or (k) and the Minister terminates his appointment.
- (3) (a) If the president vacates the office of president, he shall remain a member of the council, but the member nominated and appointed in terms of section 3 (2) (j) shall vacate his office as from the date on which the president so vacates his office.
- (b) If the president, when vacating the office of president, also resigns as a member of the council, the member appointed in terms of section 3 (2) (j) shall remain a member of the council for the unexpired portion of the period for which such member was appointed.
- (c) The provisions of this subsection shall apply mutatis mutandis to any relevant alternate member appointed in terms of section 3 (4).

#### 5. Decision of Council and Quorum

- (1) Nine member of the council shall form a quorum for any meeting thereof.
- (2) A decision of a majority of the members of the council present at any meeting of the council shall constitute a decision of 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 his deliberative vote: Provided that for any decision to the effect that this Act be amended, a majority of two-thirds of the number of members of the council shall be required.
- (3) No decision taken by the council or act performed under authority of the council shall be invalid by reason only of a vacancy on the council or of the fact that a person who was not entitled to sit as member of the council sat as a member at the time when the decision was taken or the act was authorised, if the decision was taken or the act was authorised by the requisite majority of the members of the council who were present at the time and entitled to sit as members.
- (4) A decision of the council contained in a writing and signed by at least two-thirds of the members of the council shall be valid although no meeting was held to pass that decision.

#### 6. President and Vice-President of Council

- (1) The members of the council shall at the first meeting of the council and thereafter as the occasion arises, out of their number elect a president and a vice-president of the council, who shall hold office for a period of two years.
- (2) (a) If the president or the vice-president vacates his office before the expiration of the period for which he was elected, another member of the council shall be elected as president or vice-president, in the case may be, for the unexpired portion of the period for which the president or vice-president was elected.
- (2)(b) Such an election shall take place at the first meeting of the council held after any vacancy in the office of the president or vice-president, as the case may be, has occurred.
- (3) If for any reason the president is not able to act as president, the vice-president, if able to do so, or, if not so able, any member of the council designated by the Minister, shall act in his stead.
- (4) If the president and the vice-president and the member so designated are all absent from any meeting of the council or not able to preside, the members present shall elect one out of their number to preside at that meeting, and the person so elected shall preside at that meeting.

#### 7. General powers of council and powers of Minister relating to certain matters in respect of which the council has made recommendations

- (1) The council may-
  - (a) appoint and remunerate a registrar and such other person as the council may deem necessary for the performance of its functions, and may determine their functions;
  - (b) determine the procedure at meetings of the council or any committee of the council and the manner in which minutes of the proceedings at such meetings shall be kept;
  - (c) subject to the provisions of section 10 (2), consider and give its final decisions on recommendations of a committee of the council or the education advisory committee;
  - (d) acquire or hire such movable or immovable property as it may deem necessary for the effective performance of its functions, and dispose of property so acquired or hired;
  - (e) enter into contracts and decide the manner in which contracts shall be entered into on behalf of the council;
  - (f) collect the funds of the council and, subject to the provisions of paragraph (d), deal with them by-
    - (i) investing them or any portion thereof by means of a deposit with the National Finance Corporation of South Africa, a banking institution registered in terms of the Banks Act, 1965 (Act 23 of 1965), a building society registered in terms of the Building Societies Act, 1965 (Act 24 of 1965), or the General Post Office;
    - (ii) depositing them or any portion thereof in a savings account with such a banking institution or building society or with the General Post Office;
    - (iii) depositing them or any portion thereof in a current account with such a banking institution;
  - (g) determine the manner in which an applicant shall apply for registration as a professional surveyor, a professional surveyor in training, a technical surveyor or a survey technician in training, determine the fees which shall be payable to the council in respect of any such registration and the annual fees which shall be payable to the council by any person as long as he remains registered as a professional surveyor, as a professional surveyor in training, as a technical surveyor or as a survey technician in training, determine the portion of such annual fees which shall be payable in respect of any part of a year and determine the date on which such annual fees or portion thereof shall become due and payable, and grant such exemption from payment of such annual fees or portion thereof as the circumstances of any particular case in the opinion of the council may justify;
  - (h) subject to the provisions of this Act, consider and decide upon any application for registration as a professional surveyor, as a professional surveyor in training, as a technical surveyor or as a survey technician in training;

- (i) decide upon the form of the registers and certificates to be kept, maintained or issued in terms of this Act, the reviewing thereof and the manner in which alterations thereto may be effected, and determine the fees payable in respect of the issue of such certificates;
  - (j) recommend to the Minister the work of a kind in connection with projects, undertakings or services of a survey nature (excluding cadastral surveys and surveys which may or are required to be performed in terms of any law governing mines and works or surveys which are performed in, on or in relation to a mine) to be reserved for professional surveyors, technical surveyors, or any category of professional or technical surveyors referred to in subsection (4)(b);
  - (k) ...
  - (l) subject to the provisions of this Act, determine the manner of inquiry according to which any case of alleged improper conduct is to be inquired into against any person who is or was registered in terms of this Act;
  - (m) take any steps which it may consider expedient for the protection of members of the public in their dealings with persons registered in terms of this act, the maintenance of the integrity and the enhancement of the status of such registered persons and the improvement of the standards of their qualifications;
  - (n) encourage research into matters relating to surveying, and advise, or render financial or other assistance to, any university, technikon, college or other body for the purposes of education or training in surveying;
  - (o) finance, print, distribute and administer the publication of, and generally take any steps necessary to publish, any publication relating to surveying or related matters;
  - (p) advise the Minister on matters relating to surveying or related matters;
  - (q) assist with or organise conferences, seminars and lectures for the furtherance of surveying and related matters;
  - (r) render financial assistance to students at a university, technikon or college, and collect and administer funds for such purpose; and
  - (s) take such other action and do such other things as may be required for the proper performance of its functions in terms of this Act.
- (2) The Minister may, after consideration of a relevant recommendation made by the council under subsection (1) (j), and with the concurrence of the Competition Board established by section 3 of the Maintenance and Promotion of Competition Act, 1979 (Act 96 of 1979), prescribe the work of a kind in connection with projects, undertakings or services of a survey nature (excluding cadastral surveys and surveys which may or are required to be performed in terms of any law governing mines and works or surveys which are performed in, on or in relation to a mine which shall be reserved for professional surveyors, and any category of professional and technical surveyors referred to in subsection (4) (b).
- (3) Before any provision is made under subsection (2) (a), a notice setting forth the proposed provision shall be published by the Minister in the Gazette, together with a notice intimating that it is proposed to make such provision under this section within a stated period, but not less than four weeks as from the date of the said publication, and inviting interested persons to submit any objections to or representations concerning the proposed provisions: Provided that, if the Minister thereafter decides, after consultation with the council, to effect any alteration to the provision so published as a result of any objections or representations submitted in respect thereof, it shall not be necessary to publish such alteration before finally making the provision under this section.
- (4) Subject to the provisions of this Act, the council shall keep and maintain a register of:
- (a) professional land surveyors qualified to perform the surveys referred to in section 27 (1) (a);
  - (b) the categories of professional surveyors, professional surveyors in training, technical surveyors and survey technicians in training as may be prescribed; and
  - (c) professional land surveyors, professional surveyors and surveyors who are practising in the form of professional companies or close corporations; and
  - (d) such register shall at all reasonable times be open for inspection by any person upon payment of such fees as the council may determine.
- (5) Provisions made under subsection (2) (a) may provide for the exclusion therefrom of work done under specified circumstances or for specified purposes or by or for specified persons or classes of persons or within or outside specified areas or classes of areas.
- (6) Any provision made under subsection (2) shall be made known by the Minister by notice in the Gazette.

#### **8. Funds of Council and Keeping and Auditing of Accounts**

- (1) The funds of the council shall consist of the fees received by it by virtue of the provisions of sections 7, 20, 21, 22 and 23 and such other moneys, including advances mentioned in subsection (4) of this section, as may in terms of this Act from time to time become payable to the council.
- (2) The council shall cause full and correct account to be kept of all moneys received or expended by it.
- (3) (a) The council shall cause to be prepared in each year a statement of its income and expenditure during its last preceding financial year and a balance sheet showing its financial position at the end of
  - (b) The council shall cause such statement and balance sheet to be audited by an accountant and auditor registered and engaged in public practice as contemplated in the Public Accountants' and Auditors' Act, 1951 (Act 51 of 1951), and appointed by the council.
  - (c) The council shall cause copies of such statement and balance sheet, so audited, to be transmitted to every member of the council and cause a copy thereof to be open for inspection at its office by any professional land surveyor or technical surveyor.
- (4) (a) The Minister may, with the concurrence of the Minister of Finance, advance to the council out of moneys appropriated by Parliament such amounts as he may deem necessary in order to enable the council to perform its functions. Any such advance shall be made on such conditions and shall be repayable at such times as the Minister may, with the concurrence of the Minister of Finance, determine.

#### **9. Reports to Minister**

- (1) The council shall in each year, within six months after the close of its financial year, submit to the Minister a report in connection with its functions during that financial year, together with a copy of the audited statement of income and expenditure and balance sheet referred to in section 8(3) in respect of that financial year.
- (2) The president of the council shall from time to time submit to the Minister reports on matters relating to the functions of the council which in the opinion of the council should be brought to the Minister's notice.
- (3) The council shall at the request of the Minister or the Director-General advise the Minister or Director-General, on matters in connection with land surveying or related matters, and shall communicate to the Minister information acquired by it in the course of its functions, in connection with matters deemed by it as being of public interest.

#### **10. Committees of Council**

- (1) (a) The council may establish committees to assist it in the performance of its functions and may appoint such of its members or such of its members and such other persons as it deem fit to be members of any such committee.
- (b) One of the members of any such committee shall be designated by the council as chairman of the committee.

- 2) The council may assign to a committee so established such of its powers as it may deem fit, including the power to inquire into any case of alleged improper conduct, to impose punishment in respect thereof and to make an order regarding the costs of the inquiry in accordance with the revisions of section 29, but shall not be divested of any power which it may have so assigned to such a committee, and may review, amend or withdraw any decision of any such committee.
- (3) A committee to which the council has assigned the power to inquire into any case of alleged improper conduct and to impose a punishment in respect thereof in accordance with the provisions of section 29 may, notwithstanding the expiration of the tenure of office of the members of that council, continue to exercise such powers until such inquiry is concluded.
- (4) Any reference in this Act to the council or the president of the council in relation to the exercise of any power which the council has assigned to any such committee, shall be construed as including a reference to that committee or to the chairman of that committee, as the case may be.
- (5) The provisions of section 5(3) shall apply mutatis mutandis in respect of a committee of the council.

#### **11. Establishment of Education Advisory Committee**

- (1) There is hereby established a committee to be known as the Education Advisory Committee for Professional and Technical Surveyors.
- (2) Until such time as the members of the education advisory committee have been appointed in terms of section 12, the education advisory committee shall consist of the persons who were members of the Board for the Recognition of Land Surveyors' Examinations established by section 16(b) of the Universities Act, 1955 (Act 61 of 1955), on the date immediately preceding the commencement of this Act.

#### **12. Constitution of Education Advisory Committee**

- (1) The education advisory committee shall consist of the following members appointed by the Minister, namely-
  - (a) one person nominated by the senate of each university which offers a degree course in surveying, who shall be a professor or lecturer in surveying at such university;
  - (b) two persons nominated by the Minister of National Education from persons in the full-time service of every technikon or college providing instruction in surveying;
  - (c) one person nominated by the Minister of National Education from persons in the service of the State;
  - (d) one member of the council appointed in terms of section 3 (2) (a), (b), (c), (d) or (e), nominated by the council;
  - (e) one member of the council appointed in terms of section 3 (2) (i), nominated by the council;
  - (eA) and one member of the council appointed in terms of section 3 (2)(iA) and nominated by the council;
  - (f) the president of the council; and
  - (g) one professional surveyor in the service of the State.
- (2) For every member of the education advisory committee there shall be an alternate member appointed in the same manner as such member, and any alternate member so appointed shall act in the place of the member in respect of whom he has been appointed as an alternate member, during such member's absence or inability to act as a member of the education advisory committee.
- (3) The provisions of section 3 (3) shall apply mutatis mutandis in respect of the appointment of a member of the education advisory committee referred to in subsection(1)(a),(d),(e) and (eA) of this section.
- (4) Subsection (1) (a), (d) and (e) shall come into operation six months after the commencement of this Act.

#### **13. Tenure of Office of Members of Education Advisory Committee**

- (1) (a) A member of the education advisory committee mentioned in section 12(1)(c) or (g) shall be appointed for such period as the Minister may determine at the time of his appointment.
- (b) Any other member shall be appointed for a period of two years, but shall on termination of the period for which he was appointed, continue to hold office for a further period not exceeding three months until his successor has been appointed.
- (c) If a member of the education advisory committee dies or vacates his office before the expiration of his period of office, the Minister may, subject to the provisions of section 12, appoint a person to fill the vacancy for the unexpired portion of the period for which such member was appointed.
- (2) Any member of the education advisory committee whose period of office as a member of the education advisory committee has expired, shall be eligible for reappointment.

#### **14. Circumstances under which Members of Education Advisory Committee Vacate Office**

- A member of the education advisory committee or an alternate to such a member, as the case may be, shall vacate his office-
- (a) if he was appointed in terms of section 12(1)(a) and ceases to be a professor or lecturer at the university concerned;
  - (b) if he was appointed in terms of section 12(1)(b) and ceases to be a person in the service of the technikon or college concerned;
  - (c) if he was appointed in terms of section 12(1)(c) or (g) and ceases to be a person in the service of the State;
  - (d) if he was appointed in terms of section 12(1)(d), (e) or (eA) and ceases to be a member of the council;
  - (e) if he was appointed in terms of section 12 (1) (f) and ceases to be president of the council, and
- the provisions of section 4 (2) (a) to (g) shall apply mutatis mutandis in respect of any such member or alternate to such a member.

#### **15. Chairman of Education Advisory Committee**

- (1) The members of the education advisory committee shall at the first meeting of that committee and thereafter as the occasion arises, out of their number elect a chairman of the committee, who shall hold office for a period of two years.
- (2) (a) If the chairman of the education advisory committee vacates his office before the expiration of the period for which he was elected, another member of the committee shall be elected as chairman for the unexpired portion of the period for which the chairman was elected.
- (b) Such election shall take place at the first meeting of the committee held after the vacancy in the office of chairman has occurred.
- (3) If the chairman is absent from any meeting of the education advisory committee or is not able to preside, the members present shall elect one out of their number to preside at that meeting, and the person so elected shall preside at that meeting.

#### **16. Meeting of Education Advisory Committee and Rules of Procedure**

- (1) (a) The first meeting of the education advisory committee shall be held at such time and place as the Minister may determine and all subsequent meetings shall be held at such times and places as the chairman of that committee may determine: Provided that the committee shall meet at least once in every year.

- (b) The chairman or, if he is not available or there is no chairman, the president of the council may at any time and shall, when requested thereto by the council or by not less than four members of the education advisory committee, call a special meeting of the education advisory committee to be held at such time within one month after the date of such request and at such place as the chairman or president, as the case may be, may determine.
- (2) Seven members of the education committee shall form a quorum for any meeting thereof.
- (3) The decision of a majority of the members of the education advisory committee present at any meeting thereof shall constitute a decision of that committee, 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.
- (4) The education advisory committee may determine the procedure at its meetings.
- (5) A resolution of the education advisory committee contained in a writing and signed by at least two-thirds of the members of the committee shall be valid although no meeting was held to pass that resolution.

**17. Secretarial and Administrative Work of Education Advisory Committee**

The administrative and secretarial work incidental to the performance by the education advisory committee of its functions shall be performed by officers of the department designated for this purpose by the Director-General.

**18. Allowances Payable to Members of Education Advisory Committee**

The members of the education advisory committee who are not in the full-time employment of the State shall be paid by the department such travelling and subsistence allowances while engaged on the business of the committee as the Minister may, with the concurrence of the Minister of Finance, from time to time determine.

**19. Functions of Education Advisory Committee**

- (1) The functions of the education advisory committee shall be to:
  - (a) investigate whether the syllabus of instruction prescribed and the standard of training provided by any university, technikon or college for-
    - (i) the examinations for a degree or a diploma in surveying;
    - (ii) any other examination conducted by that university, technikon or college in lieu of any examination mentioned in subparagraph (i), comply with the requirements for registration as professional surveyors, as professional surveyors in training, as technical surveyors and as survey technicians in training and for the respective posts, professions or callings for the appointment to or pursuit of which the passing of any such examination is in terms of any law a qualification; and
  - (b) make recommendations to the council that recognition be granted by the council to any such examination conducted by a university, technikon or college, as the case may be, if in the opinion of the said committee the syllabus of instruction prescribed and the standard of training provided in respect of it by that university, technikon or college comply with such requirements; or
  - (c) assist the council generally in the performance of its functions in terms of this Act and to inquire into and advise upon or make recommendations in regard to any matter which the council in the performance of its functions in terms of this Act may refer to the said committee or which the committee may of its own accord raise.
- (2) If in the opinion of the education advisory committee any examination other than an examination mentioned in subsection (1)(a)(i), conducted by any university, technikon or college, within or outside the Republic, as the case may be, is at least equivalent to any examination so mentioned, it may recommend to the council that, subject to such conditions as the council may deem fit, recognition be granted by the council to such examination as being so equivalent.
- (3) The education advisory committee may at any time recommend to the council that such recognition of any examination be withdrawn by the council, provided that if the withdrawal of any such recognition is contemplated, the council shall furnish its reasons for the proposed withdrawal to the university, technikon or college concerned, and afford it a reasonable opportunity to furnish reasons as to why such recognition should not be withdrawn, provided further that any recognition of any examination conducted prior to the withdrawal of such recognition shall be deemed to be valid.

**20. Registration of Professional Surveyors**

- (1) The requirements for registration as a professional surveyor of any person, other than a person referred to in subsection (4) or (5), shall be as follows, namely:
  - (a) attainment of the age of 21 years;
  - (b) the passing of any examination to which the council has granted recognition for the purposes of registration as a professional surveyor as contemplated in section 19 (1) (b) or (2);
  - (c) the passing of an examination regarding laws concerning surveying and related matters as may be prescribed in relation to different categories of professional surveyors;
  - (d) training for such period, whether within or outside the Republic, and in such practical work as may be prescribed in relation to professional surveyors;
  - (e) the carrying out of such trial surveys or practical tests as the council may determine; and
  - (f) the making of a professional oath or affirmation in the prescribed form in relation to the practising of his profession or calling.
- (2) The council shall, subject to the provisions of section 24 (1), on application in the prescribed form by any person who in the opinion of the council, after consultation with the Chief Surveyor-General in the case of a person who applies to be registered as a professional land surveyor, complies with the requirements mentioned in subsection(1), and upon payment of the registration and annual fees, register any such person as a professional surveyor and cause such person's name to be entered in the appropriate register and a certificate of registration in the prescribed form to be issued to him.
- (2A) Notwithstanding the provisions of subsection (1), any person, excluding a person referred to in section 7 (4) (a), who desires to be registered as a professional surveyor and who has not passed the examination referred to in subsection (1) (b) and who on a date determined by the council-
  - (a) has gained at least 15 years' experience in such practical work as in the opinion of the council is of sufficient variety and of a satisfactory nature and standard; and
    - (i) has gained during this period at least five years' experience in a senior managerial position which in the opinion of the council is of a satisfactory nature; or
    - (ii) has passed such examination as the education advisory committee, with the concurrence of the council, may accept or determine; and
  - (b) complies with the requirements referred to in subsection(1)(c),(e) and (f), may within six months after the date of commencement of section 13 of the Regional and Land Affairs Second General Amendment Act, 1993, or such further period as the council may determine, apply to the council to be registered.

- (2B) The council shall, subject to the provisions of section 24(1), on application in the prescribed form by any person referred to in subsection (2A), and upon payment of the registration and annual fees, register any such person as a professional surveyor and cause such person's name to be entered in the appropriate register and a certificate of registration in the prescribed form to be issued to him.
- (3) A professional surveyor shall, if he has paid the annual fee, be entitled to-
- (a) describe himself as a professional surveyor in the category in which he has been registered;
  - (b) carry on his profession or calling in any part of the Republic; and
  - (c) indicate his profession or calling or make it known by using the prescribed title after his name.
- (4) Any person to whom a certificate was issued in terms of section 12(2) of the Land Survey Act, 1927 (Act 9 of 1927), immediately prior to the commencement of this Act shall be deemed to have complied with the requirements for registration mentioned in this section, and the council shall, subject to the provisions of section 24 (1), on application by any such person and upon payment of the registration and annual fees, register such person as a professional surveyor and cause any such person's name to be entered in the appropriate register and a certificate of registration in the prescribed form to be issued to him.
- (5) Any person who was registered as a professional land surveyor or was deemed to be so registered in terms of this section as it existed immediately prior to the substitution thereof by the Professional Land Surveyors' and Technical Surveyors' Amendment Act, 1993, shall be deemed to have been registered as a professional surveyor in terms of this section.
- (6) (a) A land surveyor registered under a law repealed by section 48 of the Land Survey Act, 1996, may continue to practise as a professional land surveyor if, prior to 31 December 1997, he or she gives notice to the council of his or her registration under such repealed law.
- (b) On receipt of a notice referred to in paragraph (a) the council shall, subject to section 24 (1), cause the name of the land surveyor concerned to be entered in the appropriate register.
- (c) Any person whose name has been entered in terms of paragraph (b)-
- (i) shall be deemed to have been registered as a professional surveyor in terms of this section; and
  - (ii) shall for the rest of the financial year in which his or her name was so entered, be exempted from the payment of the annual fee contemplated in subsection (3).
- (d) No entry contemplated in paragraph (b) shall be made after 31 December 1997.

#### 21. Registration of Professional Surveyors in Training

- (1) Any person who desires to be registered as a professional surveyor in training and who complies with the requirements of section 20(1)(b), may apply in the prescribed form to the council to be registered as a professional surveyor in training, and the council shall, subject to the provisions of section 24 (1), upon payment of the registration and annual fees, register any such person as a professional surveyor in training and cause any such person's name to be entered in the appropriate register.
- (2) When any professional surveyor in training complies with the requirements mentioned in section 20 (1), the council shall, subject to the provisions of section 24 (1), on application in the prescribed form and upon payment of the registration and annual fees, cancel the registration of such person as a professional surveyor in training and register him as a professional surveyor in terms of section 20(2).
- (3) Any period of training in practical work undergone before the commencement of this Act and of the same kind as that prescribed, shall for the purposes of subsection (2) be deemed to be a period of training in practical work as so prescribed, provided such former training is continued within three months, or within such further period as the council may allow, after the said commencement, by means of training in practical work as so prescribed.
- (4) Any professional surveyor in training may describe himself as a professional surveyor in training, but he shall not be entitled to perform any survey work, except under the personal supervision of a professional surveyor or in such other circumstances as may be prescribed.

#### 22. Registration of Technical Surveyors

- (1) The requirements for registration as a technical surveyor of any person other than a person referred to in subsection (3) shall be as follows, namely:
- (a) in the case of a surveyor-
    - (i) the passing of any examination to which the council has granted recognition for the purposes of registration as a surveyor as contemplated in section 19(1)(b);
    - (iA) the passing of such examination approved by the council regarding laws concerning surveying and related matters as may be prescribed in relation to surveyors;
    - (ii) training for such period, whether within or outside the Republic, and in such practical work as may be prescribed in relation to surveyors;
    - (iii) the carrying out of such trial surveys or practical tests as the council may determine; and
    - (iv) the making of an oath or affirmation in the prescribed form in relation to the practising of his calling; or
  - (b) in the case of a survey technician-
    - (i) the passing of any examination to which the council has granted recognition for the purposes of registration as a survey technician as contemplated in section 19(1)(b);
    - (ii) training for such period, whether within or outside the Republic, and in such practical work as may be prescribed in relation to survey technicians;
    - (iii) the carrying out of such trial surveys or practical tests as the council may determine; and
    - (iv) the making of an oath or affirmation in the prescribed form in relation to the practising of his calling.
- (2) The council shall, subject to the provisions of section 24 (1), on application in the prescribed form by any person who in the opinion of the council complies with the requirements mentioned in subsection (1)(a) or (b), and upon payment of the registration and annual fees, register such person as a surveyor or survey technician, as the case may be, and cause such a person's name to be entered in the appropriate register and a registration certificate in the prescribed form to be issued to him.
- (3) Any person who wishes to be registered in the register referred to in section 7(4)(b) -
- (a) in the topographical and engineering category and who-
    - (i) has not passed the examination referred to in subsection (1)(a) and who at the commencement of this Act-
      - (aa) is a full member of the Institute of Topographical and Engineering Surveyors of South Africa and after he has passed the examination for the tenth standard or an equivalent examination or such other examination as the council may accept or determine, has gained at least 10 years' experience in such practical work which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard; or
      - (bb) is not such a member and after he has passed the examination for the tenth standard or an equivalent examination or such other examination as the council may accept or determine, has gained at least 15 year's experience in such practical work which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard; or
    - (ii) has not passed the examination referred to in subsection (1)(b) and who at the commencement of this Act-

- (aa) is a full member of the Institute of Topographical and Engineering Surveyors of South Africa and was engaged in the performance of practical work which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard and had been so engaged for a period of not less than five years, if he has passed the examination for the tenth standard or an equivalent examination, or seven years, if he has passed the examination for the eighth standard or an equivalent examination; or
  - (bb) is not such a member and was engaged in the performance or practical work which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard and had been so engaged for a period of not less than seven year, if he has passed the examination for the tenth standard or an equivalent examination, or nine years, if he has passed the examination for the eighth standard or an equivalent examination; or (b) in any other category than referred to in paragraph (a) and who-
  - (i) has not passed the examination referred to in subsection(1)(a) and who on a date determined by the Minister, after consultation with the council-
    - (aa) is a member of a body recognised by the council and after he has passed the examination for the tenth standard or an equivalent examination or such other examination as the council may accept or determine, has gained at least 10 years' experience in such practical work which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard; or
    - (bb) is not such a member and after he has passed the examination for the tenth standard or an equivalent examination or such other examination as the council may accept or determine, has gained at least 15 year's experience in such practical work which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard; or
  - (ii) has not passed the examination referred to in subsection(1)(b) and who on a date determined by the Minister, after consultation with the council-
    - (aa) is a member of a body recognised by the council and was engaged in the performance of practical work which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard and had been so engaged for a period of not less than five years, if he has passed the examination for the tenth standard or an equivalent examination, or seven years, if he has passed the examination for the eighth standard or an equivalent examination; or
    - (bb) is not such a member and was engaged in the performance or practical work which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard and had been so engaged for a period of not less than seven years, if he has passed the examination for the tenth standard or an equivalent examination, or nine years, if he has passed the examination for the eighth standard or an equivalent examination, and who within two years or such further period as the Minister, after consultation with the council, may determine by notice in the Gazette, after the commencement of this Act, in the case of a person referred to in paragraph (a), or after the commencement of the Professional Land Surveyors' and Technical Surveyors' Amendment Act, 1993, in the case of a person referred to in paragraph (b), applies to the council to carry out a trial survey or practical test contemplated in subsection(1)(a)(iii) or (b)(iii), and who carries out that survey or test to the satisfaction of the council within the period determined by him, and who within six months after the council has indicated in writing that such survey or test has been so carried out, complies with the requirements contemplated in subsection(1)(a)(iv) or (b) (iv), may before the expiry of the said period of six months apply in the prescribed form to the council to be registered as a surveyor or a survey technician, as the case may be, and the council shall, subject to the provisions of section24(1), register any such person as a surveyor or a survey technician, as the case may be, and cause his name to be entered in the appropriate register and a certificate of registration in the prescribed form to be issued to him free of charge.
- (4) Any person who has paid the annual fees shall be entitled-
- (a) in case of a surveyor-
    - (i) to describe himself as a surveyor in the category in which he has been registered;
    - (ii) to carry on his calling in any part of the Republic; and
    - (iii) to indicate his calling and make it known by using the prescribed title after his name;
  - (b) in the case of a survey technician-
    - (i) to describe himself as a survey technician;
    - (ii) to carry on his calling in any part of the Republic but only under the personal supervision of such professional surveyor, surveyor or other suitably qualified person as may be prescribed: Provided that the provisions of this subparagraph relating to personal supervision shall, subject to such conditions as the council may determine, not apply in respect of any person who, within two years or such further period as the Minister, after consultation with the council, may determine by notice in the Gazette, from the commencement of this Act, submits to the council proof that he has, unsupervised, performed for such period as the council may deem sufficient, practical work which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard; and
    - (iii) to indicate his calling and make it known by using the prescribed title after his name.

### 23. Registration of Survey Technicians in Training

- (1) Any person who desires to be registered as a survey technician in training may apply to the council in the prescribed form to be registered as a survey technician in training, and the council shall, subject to the provisions of section 24 (1), upon payment of the registration and annual fees, register any such person as a survey technician in training and cause any such person's name to be entered in the appropriate register.
- (2) When a survey technician in training complies with the requirements mentioned in section 22 (1) (b), the council shall, subject to the provisions of section 24 (1), on application in the prescribed form and upon payment of the registration and annual fees, cancel the registration of such person as a survey technician in training and register him as a survey technician in terms of section 22 (2).
- (3) Any period of training in practical work undergone before the commencement of this Act and of the same kind as that prescribed, shall for the purposes of subsection (2) be deemed to be a period of training in practical work as so prescribed, provided such former training is continued within three months, or within such further period as the council may allow, after the said commencement, by means of training in practical work as so prescribed.
- (4) A survey technician in training may describe himself as a survey technician in training, but shall not be entitled to perform any practical work, except under the personal supervision of a professional surveyor, a technical surveyor or such other person as may be prescribed.

### 24. Refusal or Cancellation of Registration

- (1) The council shall not register any person in terms of this Act-
  - (a) if he is according to the law detained as a mentally ill person;
  - (b) if he has at any time been convicted of an offence and sentenced in respect thereof to imprisonment without the option of a fine;
  - (c) if he has at any time been removed from an office of trust on account of improper conduct; or

- (d) if he is disqualified for registration in terms of this Act or, before the commencement of this Act, was so disqualified in terms of any other law governing the registration of land surveyors, and may refuse so to register any person who is insolvent or who has assigned his estate for the benefit of, or compounded with, his creditors.
- (2) The council shall cancel the registration of any person who subsequent to his registration becomes subject to any of the disqualification's mentioned in subsection (1) or who has been registered in error or on information subsequently proved to be false, or whose right to practise as a professional land surveyor has been cancelled by the court in terms of section 14 of the Land Survey Act, 1927 (Act 9 of 1927), and may cancel the registration of a person who subsequent to his registration becomes insolvent or assigns his estate for the benefit of, or compounds with, his creditors, and his name shall then be removed from the register.
- (3) The registration of any person shall lapse if such person-
  - (a) fails to pay any annual fees payable by him, within three months after such fees or portion thereof become due or within such further period as the council may in any particular case allow; or
  - (b) being a person registered in terms of section 21 (1) or 23 (1), has for at least 90 consecutive days failed to undergo training referred to in section 20(1)(d) or 22(1)(a)(ii) or (b)(ii), as the case may be, unless any break in training has been condoned by the Chief Surveyor-General, and such person's name shall be removed from the register.
- (4) The council shall at the written request of any person registered in terms of this Act, cancel his registration and remove his name from the register, but such cancellation shall not affect any liability incurred by such person prior to the date of such removal.
- (5) Subject to the provisions of subsection (1), the council-
  - (a) shall on application made to it by any person whose registration has lapsed in terms of subsection (3) (a) or has been cancelled in terms of subsection (4);
  - (b) may on application made to it by any person, other than a person mentioned in paragraph (a), whose registration has been cancelled or has lapsed in terms of this section, and upon payment of the registration and any arrear annual fees (if any) that the council may determine, restore such person's registration.

#### **25. Return of Certificates of Registration and Issue of Copies thereof**

- (1) Any person whose registration has been cancelled in terms of section 24(2) or (4) or has lapsed in terms of section 24(3) shall return to the registrar his certificate of registration within 30 days from the date upon which he is directed by the registrar by notice in writing by registered post to do so, unless he satisfies the registrar that the certificate has been lost or destroyed, if such is the case, or his registration has been restored under section 24 (5).
- (2) Any person who fails to comply with any direction referred to in subsection(1) shall be guilty of an offence and liable on conviction to a fine not exceeding R200.
- (3) The council shall on the application of any person who satisfies it that the relevant certificate of registration issued to him has been lost or destroyed, issue a copy of the certificate on payment of the prescribed fee.

#### **26. Registrar to give Information to Chief Surveyor-General and Institutes**

The registrar shall furnish the Chief Surveyor-General and every Institute mentioned in section 3 (2) (a), (b), (c), (d), (e) and (i) in writing with the name, address, qualifications and date of registration of every person-

- (a) who is registered in terms of this Act;
- (b) whose registration has been cancelled in terms of section 24(2) or (4) or has been restored in terms of section 24 (5), together with the date of such cancellation or restoration, as the case may be;
- (c) upon whom any penalty referred to in section 29 (1) has been imposed or whose suspension has been ordered under section 31 (2), together with the date and nature of the penalty or suspension, as the case may be;
- (d) whose suspension under section 29 (1) or 31 (2) has been extended or withdrawn under section 31(3) or terminated in terms of section 33;
- (e) whose penalty or suspension under section 29 (1) or 31 (2) has been set aside or varied by the court in terms of section 32 (2).

#### **27. Prohibition of practice as Professional Land Surveyor, Professional Surveyor or Technical Surveyor by unregistered person**

- (1) Subject to any exemption granted under this Act, any person-
  - (a) whose name is not entered in the register for professional land surveyors referred to in section 7 (4) (a) and who-
    - (i) performs any survey for the purpose of preparing a diagram or general plan to be filed or registered in terms of any law governing the registration of any land or rights in land or mentioned in any manner whatsoever in any other document to be so filed or registered; or
    - (ii) performs any survey affecting the delimitation of the boundaries or the location of the beacons of any land so registered;
  - (b) who is not registered as a professional surveyor and who performs any kind of work reserved for professional surveyors under section 7(2);
  - (c) who is not registered as a professional surveyor or as a surveyor or as a survey technician and who performs any kind of work reserved for technical surveyors under section 7 (2);
  - (d) who is not registered as a professional surveyor or as a surveyor or as a survey technician and pretends to be or by any means whatsoever holds himself out or allows himself to be held out as a person who is registered as a professional surveyor or surveyor or survey technician in terms of this Act, shall be guilty of an offence and liable on conviction to a fine not exceeding R2000.
- (2) Subject to any exemption granted under this Act, any company or other juristic person, other than a professional company or close corporation incorporated or registered pursuant to the provisions of section 27A or 27B, which-
  - (a) performs or causes to be performed for any other person, whether a natural or juristic person, by any person, whether registered in terms of this Act as a professional surveyor or as a surveyor or as a survey technician or not, any kind of work reserved for professional or technical surveyors, respectively, under section 7(2); or
  - (b) pretends to be or by any means whatsoever holds itself out or allows itself to be held out as a company or other juristic person performing any kind of work reserved for professional or technical surveyors under section 7 (2), or uses any name, title, description or symbol indicating or calculated to lead persons to infer that it is a company or other juristic person performing any kind of work so reserved for professional or technical surveyors, shall be guilty of an offence and liable on conviction to a fine not exceeding R2000.

#### 27A. Carrying on of Profession of Professional Surveyor or Calling of Surveyor by Company

- (1) Notwithstanding any provision of this Act to the contrary, a company may practise as and perform the work of a professional surveyor if-
  - (a) the company has been incorporated and registered as a private company with share capital, under the Companies Act, 1973 (Act 61 of 1973), and its memorandum of association provides-
    - (i) that all present and past directors shall be liable jointly and severally with the company for the debts and liabilities of the company contracted during their periods of office;
    - (ii) that the main object of the company shall be to perform the work of a professional surveyor or surveyor; and
  - (b) the articles of the company provide-
    - (i) that only natural persons who are professional surveyors or surveyors, or other natural persons approved by the council in writing, may be members and shareholders of the company;
    - (ii) that every shareholder of the company shall be a director thereof and that only a shareholder of the company shall be a director thereof;
    - (iii) that a shareholder may not transfer any share, or any rights or benefits attaching to a share, to any person other than a person referred to in subparagraph (i);
    - (iv) that in the event of a shareholder's death or of his ceasing to comply with a requirement of subparagraph (i), his estate or he himself, as the case may be, may continue to hold his shares in the company as from the relevant date for a period of six months or for such longer period as may have been approved by the council, and that during such period any voting rights attaching to such shares may be exercised by any other shareholder of the company whom the first-mentioned shareholder may have nominated in writing before his death or disqualification for the purposes of this subparagraph or, failing such nomination, by the chairman of the company.
- (2) (a) The holder of a share referred to in subsection (1) (b) (iv) may not act as a director of the company concerned, or directly or indirectly receive any directors' fees or remuneration from that company.
  - (b) Such shares as are not in accordance with the company's articles transferred within the period referred to in subsection (1)(b)(iv) to any person referred to in subsection (1)(b)(i), may, notwithstanding anything to the contrary contained in any law, be acquired by the company itself, provided-
    - (i) the purchase price for those shares, including any premium, if any, on those shares, is paid out of profits which otherwise would have been available for payment of dividends; and
    - (ii) an amount equal to the nominal amount of the shares acquired is transferred to a capital redemption reserve fund.
  - (c) The acquisition in accordance with the provisions of paragraph (b) by the company itself of shares referred to in that paragraph shall not be deemed to constitute a reduction of the authorised share capital of the company concerned, and the provisions of the Companies Act, 1973, relating to the reduction of the share capital of a company shall apply to share capital of the company concerned.
  - (d) Shares purchased as contemplated in paragraph (b), shall be available for allotment in terms of the articles of the company.
  - (e) Any transfer of shares in a company referred to in this section, or of any rights and benefits attaching thereto, in conflict with subsection (1)(b)(iv), shall be void.
- (3) Subject to the provisions of section 49 (4) of the Companies Act, 1973, the name of a company referred to in this section shall, unless the council in any particular case approves of any other name, consist solely of the name or names of any of the present or past members of the company or of a person or persons who conducted, either for his or their own account or in partnership, any practice which may reasonably be regarded as a predecessor of the practice of the company.
- (4) Any-
  - (a) act performed, with or without a particular intent, by or on instructions or with permission, express or implied, given by a director or employee of a company referred to in this section; and
  - (b) omission, with or without a particular intent, of any act which ought to have been but was not performed by or on instructions given by a director or employee of a company, in the exercise of his powers or in the performance of his duties as such director or employee or in furthering or endeavouring to further the interests of that company, and which would have constituted improper conduct if it had been performed or omitted by a professional surveyor or surveyor carrying on his profession or calling as a natural person in practice shall, for the purpose of this Act, be deemed to have been performed or omitted by every member, shareholder, director or employee of such company practising as a professional surveyor or surveyor, unless it is proved that such professional surveyor or surveyor did not take part in the performance of the act or the omission and that he could not have prevented it.
- (5) A company referred to in this section which, otherwise than under an exemption granted in terms of this Act, entrusts work reserved under section 7 for professional and technical surveyors to any person, whether a member, shareholder, director or employee of the company or no, other than a professional or technical surveyor, shall be guilty of an offence and liable on conviction to a fine not exceeding R10 000.
- (6) Any person who-
  - (a) not being a nominee or chairman referred to in subsection (1)(b)(iv), exercises any voting rights contemplated in that subsection during the period referred to therein; or
  - (b) contravenes a provision of subsection (2)(a), shall be guilty of an offence and liable on conviction to a fine not exceeding R1000.
- (7) (a) The provisions of section 7 (2) and (5) shall apply mutatis mutandis in respect of a company referred to in this section.
  - (b) The payment in accordance with the provisions of this Act by a company referred to in this section on behalf of a professional or technical surveyor who carries on his profession as a member, shareholder, director or employee of that company, of any annual fee or levy, shall for the purposes of this Act be deemed to be a payment by such professional or technical surveyor.
- (8) The council may cancel the registration as a professional surveyor or surveyor of any shareholder, director or member of a company referred to in this section, if the company is liquidated or placed under provisional or voluntary liquidation or judicial management.

#### 27B. Carrying on of Profession of Professional Surveyor or Calling of Surveyor by Close Corporation

- (1) Notwithstanding any provision of this Act to the contrary, a close corporation may perform the work of a professional surveyor or surveyor if the close corporation has been registered under the Close Corporation Act, 1984 (Act 69 of 1984), and its founding statement provides that-
  - (a) all present and past members of the close corporation shall be liable jointly and severally with the close corporation for the debts and liabilities of the said close corporation contracted during the period of their membership of the close corporation concerned;
  - (b) the principal business to be carried on by the close corporation shall be to perform the work of a professional surveyor or surveyor;
  - (c) only natural persons who are registered professional surveyors or surveyors, or other natural persons approved by the council in writing, may be members of the close corporation;
  - (d) every member shall be the beneficiary of the interest held by such member;

- (e) a member may not transfer any interest, or any rights or benefits attaching to such interest, to any person other than a person referred to in paragraph (c);
- (f) in the event of a member's death or of his ceasing to comply with a requirement of paragraph (c), his estate or he himself, as the case may be, may continue to hold his interest in the close corporation as from the relevant date for a period of six months or for such longer period as may be approved by the council, and that during such period any voting rights attaching to such interest may be exercised by any other member of the close corporation whom the first-mentioned member may have nominated in writing before his death or disqualification for the purposes of this subparagraph or, failing such nomination, by a member nominated by a majority of members of the close corporation.
- (2) The holder of an interest referred to in subsection (1) (e) may not participate in the decisions of the close corporation or directly or indirectly receive any remuneration as a result of such interest in the close corporation.
- (3) Subject to the provisions of the said Close Corporations Act, 1984, the name of a close corporation referred to in this section shall, unless the council in any particular case approves of any other name, consist solely of the name or names of any of the present or past members of the close corporation or of a person or persons who conducted, either for his or their own account or in partnership, any practice which may reasonably be regarded as a predecessor of the practice of the close corporation.
- (4) Any-
  - (a) act performed, with or without a particular intent, by or on instructions or with permission, express or implied, given by a member or employee of a close corporation referred to in this section; and
  - (b) omission, with or without a particular intent, of any act which ought to have been but was not performed by or on instructions given by a member or employee of a close corporation; in the exercise of his power or in the performance of his duties as such member or employee or in furthering or endeavouring to further the interests of that close corporation, and which would have constituted improper conduct if it had been performed or omitted by a professional surveyor or surveyor carrying on his profession or calling as a natural person in practice shall, for the purpose of this Act, be deemed to have been performed or omitted by every member or employee of such close corporation practising as a professional surveyor or surveyor, unless it is proved that such professional surveyor or surveyor did not take part in the performance of the act or the omission and that he could not have prevented it.
- (5) A close corporation referred to in this section which, otherwise than under an exemption granted in terms of this Act, entrusts work reserved under section 7 for professional and technical surveyors to any person, whether a member or employee of the close corporation or not, other than a professional or technical surveyor, shall be guilty of an offence and liable on conviction to a fine not exceeding R10000.
- (6) Any person who-
  - (a) not being a nominee referred to in subsection (1) exercises any voting rights contemplated in that subsection during the period referred to therein; or
  - (b) contravenes a provision of subsection(2), shall be guilty of an offence and liable on conviction to a fine not exceeding R1000.
- (7) (a) The provisions of section 7 (2) and (5) shall apply mutatis mutandis in respect of a close corporation referred to in this section.  
 (b) The payment in accordance with the provisions of this Act by a close corporation referred to in this section on behalf of a professional or technical surveyor who carries on his profession as a member or employee of that close corporation, of any annual fee or levy, shall for the purposes of this Act be deemed to be a payment by such professional or technical surveyor.
- (8) The council may cancel the registration as a professional surveyor or surveyor of any member of a close corporation referred to in this section, if the close corporation is liquidated or placed under provisional or voluntary liquidation or judicial management.

## 28. Improper Conduct

- (1) Any professional surveyor shall be guilty of improper conduct if he-
  - (a) except with the consent of the council or in terms of any exemption granted under this Act knowingly entrusts to any person other than a professional surveyor work of a kind reserved for professional surveyors under section7(2);
  - (b) accepts remuneration from any person other than his client or employer for the performance of work of a kind reserved for professional surveyors under section 7 (2);
  - (c) performs work of a kind reserved for professional surveyors under section 7 (2) during any period in respect of which he has been suspended under this Act;
  - (d) carries on his profession as a member, shareholder, director or employee of a company referred to in section 27A, or as a member or employee of a close corporation referred to in section 27B, which company or close corporation does not comply with any requirement of section 27A or 27B, as the case may be, or any other applicable provision of this Act; or
  - (e) in his capacity as a member, shareholder, director or employee of a company referred to in section 27A, or as a member or employee of a close corporation referred to in section 27B, performs any act or commits any omission which would under any provision of this Act have constituted improper conduct if it had been performed or committed by a professional or technical surveyor in the carrying on of his profession as a natural person in practice.
- (2) Any surveyor shall be guilty of improper conduct if he-
  - (a) except with the consent of the council or in terms of any exemption granted under this Act knowingly entrusts to any person other than a surveyor work of a kind reserved for surveyors under section7(2);
  - (b) accepts remuneration from any person other than his client or employer, for performing work of a kind reserved for surveyors under section 7 (2);
  - (c) performs work of a kind reserved for surveyors under section7(2) during any period in respect of which he has been suspended under this Act;
  - (d) carries on his calling as a member, shareholder, director or employee of a company referred to in section 27A, or as a member or employee of a close corporation referred to in section 27B, which company or close corporation does not comply with any requirement of section 27A or 27B, as the case may be, or any other applicable provision of this Act; or
  - (e) in his capacity as a member, shareholder, director or employee of a company referred to in section 27A, or as a member or employee of a close corporation referred to in section 27B, performs any act or commits any omission which would under any provision of this Act have constituted improper conduct if it had been performed or committed by a professional or technical surveyor in the carrying on of his profession as a natural person in practice.
- (3) Any professional surveyor or survey technician shall be guilty of improper conduct if he-
  - (a) commits an offence in the exercise of his profession or calling; or
  - (b) contravenes or fails to comply with any rule made under section34(1)(e); or
  - (c) brings his profession or calling or the council, or any of its members or persons in its employment, into disrepute; or
  - (d) conducts himself in a manner which, when regard is had to his profession or calling, is improper.

- (4) The acquittal or conviction of a professional surveyor or surveyor or survey technician by a court of law upon a criminal charge shall not be a bar to proceedings against him under this Act on a charge of improper conduct, even if the facts set forth in the charge of improper conduct would, if proved, constitute the offence set forth in the criminal charge on which he was so acquitted or convicted or any other offence of which he might have been convicted at his trial on the said criminal charge.
- (5) If the improper conduct with which the professional surveyor or surveyor or survey technician is charged amounts to an offence of which he has been convicted by a court of law, a certified copy of the record of his trial and conviction by that court shall, upon the identification of such professional surveyor or surveyor or survey technician as the person referred to in the record, be sufficient proof of the commission by him of such offence, unless the conviction has been set aside by a superior court: Provided that it shall be competent for the professional surveyor or surveyor or survey technician charged to adduce evidence that he was in fact wrongly convicted.
- (6) When in the course of any proceedings before any court of law or in the course of an investigation in terms of any law it appears to the court or to the person in charge of the investigation, as the case may be, that there is prima facie evidence of improper conduct on the part of a professional surveyor or surveyor or survey technician, or conduct which, regard being had to the profession or calling of a professional surveyor or surveyor or survey technician, is improper, the court of the person in charge of the investigation, as the case may be, shall direct that a copy of the record of the proceedings or the investigation or such part thereof as is material to the issue, be transmitted to the council.

#### 29. **Disciplinary Powers of Council**

- (1) The council may inquire into cases of improper conduct of which a person who is or was registered in terms of this Act is alleged to have been guilty while so registered and if proved make an order in relation to the costs of such inquiry and impose in respect of any such case of improper conduct any of the following penalties, namely-
  - (a) a fine not exceeding R5000; or
  - (b) a caution or a reprimand or a caution and a reprimand; or
  - (c) suspension from practising in the Republic for a specified period not exceeding three years; or
  - (d) cancellation of his registration in terms of this Act and the removal of his name from the register; or
  - (e) in addition to the punishment imposed under paragraph(d), disqualification for registration in terms of this Act for a specified period. Provided that in a case of alleged improper conduct which forms or which the council has reason to believe is likely to form the subject of criminal or civil proceedings in a court of law, the council shall postpone the inquiry until such proceedings have been concluded.
- (2) When any punishment imposed under subsection (1) consists of, or includes, any fine, or any order is made in relation to the costs of the inquiry, the amount thereof shall be recovered by the council from the person concerned, and any amount so recovered shall be paid into the funds of the council.
- (3) When an inquiry is held in respect of any matter referred to the council by the Director-General or a person duly authorised by him in terms of section 14 of the Land Survey Act, 1927 (Act 9 of 1927), one half of the cost of such inquiry shall be paid from the State Revenue Fund.

#### 30. **Inquiry by Council**

- (1) For the purpose of any inquiry under section 29 the council may-
  - (a) summon any person who in its opinion is able to give information of material interest concerning the subject which is being investigated or who is presumed to have in his possession or custody or under his control any book, document or thing which relates to the subject which is being investigated, to appear before the council at a time and place specified in the summons to be interrogated or to produce that book, document or thing, and may retain for examination any book, document or thing so produced;
  - (b) call and by way of its president administer an oath to, or accept an affirmation from, any person present at the inquiry who was or could have been summoned under paragraph (a) and interrogate him and require him to produce any book, document or thing in his possession or custody or under his control;
  - (c) appoint any person to advise the council at such inquiry on matters relating to law, procedure, evidence or the imposition of punishment.
- (2) A summons requiring any person to appear before the council or to produce any book, document or thing, shall be in the form determined by the council, be signed by the president of the council or a person authorised thereto by it and served in the same manner as a summons in a criminal case issued by a magistrates court or, in the case of a summons to be served in a designated country as defined in the Reciprocal Service of Civil Process Act, 1990 (Act 12 of 1990), in accordance with the provisions of that Act.
- (3) If any person who has been duly summoned under this section fails, without sufficient cause, to appear at the time and place specified in the summons or to remain in attendance until excused from further attendance by the president of the council, or if any person called under subsection (1) (b) refuses to be sworn or to accept an affirmation as a witness or fails without sufficient cause to answer fully and satisfactorily to the best of his knowledge and belief all questions lawfully put to him concerning the subject which is being investigated or to produce any book, document or thing in his possession or custody or under his control which he has been required to produce, he shall be guilty of an offence: Provided that in connection with the interrogation of any such person or the production of any such book, document or thing, the laws relating to privilege, as applicable to a witness summoned to give evidence or to produce any book, document or thing before a court of law, shall apply.
- (4) Any witness who, after having been duly sworn or having accepted an affirmation, gives a false answer to any question lawfully put to him or makes a false statement on any matter, knowing such answer or statement to be false, shall be guilty of an offence.
- (5) Any person who wilfully hinders the president or any member or person in the employment of the council in the exercise of any power conferred upon him by or under this section, shall be guilty of an offence.
- (6) A person whose conduct is being inquired into by the council shall be informed of the nature of the complaint made against him and shall be entitled to appear by himself or to be represented by any other person duly authorised in writing on his behalf, and to produce evidence, call and examine witnesses on his behalf and cross-examine other witnesses.
- (7) Any person convicted of an offence under subsection(3),(4) or(5) shall be liable to a fine not exceeding R200.

### 31. Suspension from Practicing of Registered Persons who have become of Unsound Mind

- (1) When it appears to the council from information on oath that a professional or technical surveyor is mentally ill to such an extent that it would be contrary to the public interest to allow him to continue to practise, the council may, if it deems fit, hold an inquiry *mutatis mutandis* in accordance with the provisions of section 30 in respect of such person.
- (2) If the council finds that such professional or technical surveyor has so become mentally ill, it may order his suspension for a specified period from practising his profession or calling.
- (3) The council may extend for any period determined by it the period of operation of, or withdraw, any order made under this section.

### 32. Appeals against Decisions of Council

- (1) Any person aggrieved at any decision of the council in terms of section 29 or 31 or any penalty imposed by it under section 29, may within 30 days after the council has given its decision or imposed the penalty, appeal against that decision or penalty by way of notice of motion to the provincial or local division of the Supreme Court of South Africa having jurisdiction in the area in which any such person ordinarily practises or works as a professional surveyor or technical surveyor.
- (2) The said division of the Supreme Court shall inquire into and consider the matter and may confirm, vary or set aside the decision of, or the penalty imposed by, the council or give such other decision or impose such other penalty as in its opinion the council should have given or imposed, and may make such order as to costs as it may deem fit: Provided that the decision of the council shall not be set aside by reason only of an irregularity which did not embarrass or prejudice the appellant in answering the charge or in the conduct of his defence.

### 33. Council may Re-admit Person

The council may on application by any person who has in terms of section 29(1) been suspended from practising or whose name has been removed from the register or who has been disqualified from registration for a specified period, terminate such suspension or, notwithstanding the provisions of section 24 (1) (d) but subject to section 24 (1) (a), (b) and (c), register such person in terms of section 20, 21, 22 or 23 on such conditions as the council may determine.

### 34. Rules

- (1) The council may by notice in the Gazette make rules-
  - (a) in relation to any matter which is required to be or may be prescribed by the council under this Act;
  - (b) in relation to the calling of and procedure at meetings of the council or of a committee of the council or of the education advisory committee;
  - (c) in relation to the remuneration and allowances payable from the funds of the council to members of the council or of a committee of the council;
  - (d) in relation to the keeping and custody of registers of persons registered in terms of this Act;
  - (e) prescribing the requirements with which persons registered in terms of this Act shall comply in carrying on their profession or calling;
  - (f) prescribing conduct (in addition to conduct referred to in section 28) constituting improper conduct for a person registered in terms of this Act;
  - (g) prescribing the manner and circumstances in which a professional or technical surveyor may form a partnership with any member of a related profession or calling;
  - (h) prescribing the method of inquiry into allegations of improper conduct;
  - (i) prescribing the nature, form and period (not exceeding two years) of training in practical work to be undergone by a professional surveyor in training;
  - (j) prescribing the nature, form and period (not exceeding two years) of training in practical work to be undergone by a survey technician in training;
  - (k) prescribing the form of the contract of training between any person and a professional surveyor in training or a survey technician in training who wishes to undergo practical training with such person, before qualifying for registration as a professional surveyor or a survey technician, and the manner in which such a contract shall be registered;
  - (KA) prescribing the manner and circumstances in which a professional company or close corporation may form a partnership with any member of a related profession or calling;
  - (l) in relation to, generally, all matters which it considers necessary or expedient to prescribe in order that the purposes of this Act may be achieved.
- (2) Different rules may be made in relation to different categories of professional surveyors, professional surveyors in training, technical surveyors and survey technicians in training.

### 35. Procedure and Evidence

- (1) The register shall be prima facie proof of all matters required to be or that may be entered therein by or under this Act.
- (2) A certificate purporting to be signed by the registrar to the effect that an entry has or has not been made in the register or that any other thing which may be done by or under this Act has or has not been done, shall be prima facie proof of the matters mentioned in that certificate.
- (3) A copy of-
  - (a) an entry in the register or of a document in the custody of the registrar, or of an extract from the register or from any such document, purporting to be certified by the registrar; or
  - (b) any record or any extract from any such record appertaining to a survey and preserved by the Chief Surveyor-General or a Surveyor-General, purporting to be certified by the Chief Surveyor-General or the Surveyor-General in question, shall be admitted in evidence in all courts of law without further proof or production of the original.

### 36. Rectification of Errors

When anything which is required to be done or performed in terms of this Act on or before a specified day or at a specified time or during a specified period, has not been so done or performed, the Minister may, if he is satisfied that such failure was due to an error or oversight, and that it is in the interest of the surveying profession to do so, authorise such thing to be done or performed on or before any other day or at any other time or during any other period, as he may direct, and anything so done or performed shall be of full force and effect and shall be deemed to have been lawfully done or performed in accordance with the provisions of this Act.

37. **Liability of Council**

The council or any member thereof or any person in its employment shall no be liable in respect of any act or duty performed in good faith in accordance with the provisions of this Act.

38. **Delegation of Powers**

- (1) The Minister may in writing delegate to the Director-General, or to any other officer of the department, any or all of the powers conferred upon him under this Act, except the powers conferred upon him by section 7 (2) and (3).
- (2) Any person to whom any power has been delegated under subsection(1) shall exercise that power subject to the direction of the Minister.
- (3) The Minister may at any time revoke in writing any such delegation, and the delegation of any power shall not prevent the exercise of that power by the Minister himself.

39. **Exemption from Operation of Provisions of Act**

- (1) The Minister may, after consultation with the council, by notice in the Gazette and subject to such conditions as he may determine, exempt any person, including any company or other juristic person or class of such persons, specified in the notice, either generally or under such circumstances as may be specified in the notice and either indefinitely or for such period as may be so specified, from the operation of any or all of the provisions of this Act, excluding section 27 (1) (a).
- (2) Before any provision relating to section 27 (2) is made under subsection (1) of this section, a notice setting forth the pro used provision shall be published by the Minister in the Gazette, together with a notice intimating that it is proposed to make such provision under subsection (1) of this section within a stated period, but not less than four weeks as from the date of such publication, and inviting interested persons to submit any objections to or representations concerning the proposed provisions: Provided that, if the Minister thereafter decides on any alteration in the provision so published as a result of any objections or representations submitted in respect thereof, it shall not be necessary to publish such alteration before finally making the provision under subsection (1) of this section.

40. **Construction of Act 22 of 1904 of Cape of Good Hope**

The Institute of Government Land Surveyors' Incorporation Act, 1904 (Act 22 of 1904), of the Cape of Good Hope, shall be construed as if it had at all relevant times before the repeal thereof by section 6 of the Professional Land Surveyors' and Technical Surveyors' Amendment Act, 1986, provided for the establishment of two juristic persons under the names of-

- (a) the Institute of Professional Land Surveyors of the Eastern Cape, representing professional land surveyors practising within the area consisting of the area of jurisdiction of the Eastern Cape Division of the Supreme Court of South Africa on the date of commencement of this Act; and
- (b) the Institute of Professional Land Surveyors of the Western Cape, representing professional land surveyors practising within any part of the province of the Cape of Good Hope other than the area mentioned in paragraph (a), to which the provisions of the said Act, except section 1 thereof, accordingly applied as if the said section 1 had provided for the establishment of the said two Institutes.

41. **Repeal and Amendment of Laws**

The laws specified in the Schedule are hereby repealed or amended to the extent set out in the third column of that Schedule.

42. **Completion of Certain Inquiries**

Any inquiry not concluded by the Central Council of Land Surveyors before the commencement of this Act shall be concluded in accordance with the provisions of the Land Surveyors' Registration Act, 1950 (Act 14 of 1950), as if that Act had not been repealed by this Act.

43. **Transfer of Assets and Liabilities to Council**

As from the commencement of this Act all the assets, rights, liabilities and obligations of the Central Council of Land Surveyors established by section 2 of the Land Surveyors' Registration Act, 1950 (Act 14 of 1950), shall, subject to the provisions of this Act and without the payment of any transfer duty, stamp duty or other fees, become the assets, rights, liabilities and obligations of the council, and any reference in any law or document to the said Central Council of Land Surveyors shall be construed as a reference to the council.

44. **Short title and commencement**

- (1) This Act shall be called the Professional and Technical Surveyors'Act, 1984, and shall come into operation on a date fixed by the State President by proclamation in the Gazette.
- (2) Different dates may be so fixed in respect in different provisions of this Act.
- (3) A reference in this Act to its commencement shall be construed as a reference to the applicable date so fixed.

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