

Zambia

## National Council for Construction Act, 2020

Act 10 of 2020

Legislation as at 26 November 2020

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## Zambia

# National Council for Construction Act, 2020

## Act 10 of 2020

Published in Government Gazette on 26 November 2020

Assented to on 26 November 2020

Commenced on 26 February 2021 by National Council for Construction Act (Commencement) Order, 2021

*[This is the version of this document from 26 November 2020.]*

**An Act to provide for the promotion, development and regulation of the construction industry so as to promote economic growth and competitiveness and create sustainable employment; continue the existence of the National Council for Construction and provide for its functions; enhance contractor capacity development and technical compliance in the construction industry; collaborate with professional bodies engaged in activities in the construction industry; continue the existence of the Construction School and rename it as the National Construction School; provide for a complaints and appeals procedure; repeal the National Council for Construction Act, 2003; and provide for matters connected with, or incidental to, the foregoing.**

ENACTED by the Parliament of Zambia.

### Part I – Preliminary provisions

#### 1. Short title and commencement

This Act may be cited as the National Council for Construction Act, 2020, and shall come into operation on the date appointed by the Minister by statutory instrument.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

"**appropriate authority**" includes a Minister, public body, statutory body or person, who exercises a power or regulatory function under any written law, impacting on, or relating to, socio economic policies, construction, buildings, roads, urban and regional planning, surveys, engineering, architecture, public procurement, occupational safety, factories, environment, natural resources management, water and sanitation, energy, infrastructure development, manufacturing, commerce, investments or empowerment of citizens;

"**architect**" means an architect registered in accordance with the Zambia Institute of Architects Act;

*[Cap. 442]*

"**associate**" has the meaning assigned to the word in the Anti-Corruption Act, 2012;

*[Act No. 3 of 2012]*

"**Association of Consulting Engineers of Zambia**" has the meaning assigned to the words in the Engineering Institution of Zambia Act, 2010;

*[Act No. 17 of 2010]*

"**best practice**" means a desirable and appropriate standard, process, procedure, method or system in relation to the delivery process and life cycle of fixed assets;

"**best practice project assessment scheme**" means the best practice project assessment scheme established by the Council under [section 32](#);

"**Board**" means the governing body of the Council constituted under [section 7](#);

"**certificate of registration**" means a certificate of registration issued under sections [12](#) and [22](#);

"**Chairperson**" means a person appointed as Chairperson of the Board under [section 7](#);

"**citizen**" has the meaning assigned to the word in the Constitution;

*[Cap. 1]*

"**code of conduct and ethics**" means the code of conduct and ethics prescribed for registered contractors, manufacturers and suppliers under [section 51](#);

"**company**" has the meaning assigned to the word in the Companies Act, 2017;

*[Act No. 10 of 2017]*

"**contractor**" means an individual, firm, company or body of persons, who undertakes to execute and complete construction works;

"**control**" has the meaning assigned to the word in the Companies Act, 2017;

*[Act No. 10 of 2017]*

"**construction**" means the process of erecting, extending, repairing, maintaining, retrofitting, renewing, renovating, rehabilitating, altering, converting, restoring, refurbishing, upgrading, dismantling or demolishing of all types of buildings and engineering infrastructure, and includes temporary and any preparatory works required to undertake the works;

"**construction industry**" means the broad aggregation of industries in various sectors of the economy which participate in construction works;

"**construction material**" means an item, article, element, substance, component or supply consumed or used in construction works;

"**construction project**" means a construction works contract or a series of related construction works contracts;

"**construction works**" means the erection, extension, installation, repair, maintenance, retrofitting, renewal, renovation, rehabilitation, alteration, conversion, restoration, refurbishment, upgrading, dismantling or demolition of all types of building and engineering infrastructure and includes temporary and any preparatory works required to undertake the works;

"**Council**" means the National Council for Construction continued under [section 4](#);

"**Executive Director**" means a person appointed as Executive Director under [section 9](#);

"**Emoluments Commission**" means the Emoluments Commission established under the Constitution;

*[Cap. 1]*

"**engineer**" means an engineer who is registered in accordance with the Engineering Institution of Zambia Act, 2010;

*[Act No. 17 of 2010]*

"**Engineering Institution of Zambia**" means the Engineering Institution of Zambia established under the Engineering Institution of Zambia Act, 2010;

*[Act No. 17 of 2010]*

"**foreign contractor**" means—

- (a) in the case of an individual, a contractor who is a non-citizen; or
- (b) in the case of a firm, company or a corporate or unincorporate body of persons, a contractor wholly owned by a non-citizen;

"**gender**" has the meaning assigned to the word in the Gender Equity and Equality Act, 2015;

[Act No. 22 of 2015]

"**gender equality**" has the meaning assigned to the words in the Gender Equity and Equality Act, 2015;

[Act No. 22 of 2015]

"**inspector**" means a person appointed as an inspector under [section 36](#);

"**large scale contractor**" means a contractor registered as a large scale contractor in accordance with [section 12](#);

"**manufacturer**" means a person, firm or company that makes, produces, builds, assembles, creates, fabricates, prefabricates, processes, forms, fashions, models, moulds, shapes, forges or engineers construction materials, tools, plant and equipment through a process of raw materials, components or assembling;

"**medium scale contractor**" means a contractor registered as a medium scale contractor in accordance with [section 12](#);

"**partnership**" means a partnership relationship which exists between a foreign contractor and a Zambian contractor carrying on construction works with a view to profit;

"**private body**" means an organisation, company, partnership, proprietorship or other person or institution which is not a public body, and includes a research and training institution, non-governmental organisation, development partner or any other person engaged, interested in, or concerned with, the construction industry;

"**procuring entity**" has the meaning assigned to the words in the Public Procurement Act, 2020;

[Act No. of 2020]

"**public body**" has the meaning assigned to the words in the Public Finance Management Act, 2018;

[Act No. 1 of 2018]

"**quantity surveyor**" means a quantity surveyor registered under the Quantity Surveyors Act;

[Cap. 438]

"**Quantity Surveyors Registration Board**" means the Quantity Surveyors Registration Board established under the Quantity Surveyors Act;

[Cap. 438]

"**register**" means a register established and maintained under this Act;

"**relative**" has the meaning assigned to the word in the Anti-Corruption Act, 2012;

[Act No. 3 of 2012]

"**repealed Act**" means the National Council for Construction Act, 2003;

[Act No. 13 of 2003]

"**resources**" means financial, human, technical and other resources, and includes tools, plant and equipment owned by a company;

"**Secretary**" means a person appointed as Secretary of the Council under [section 9](#);

"**School**" means the National Construction School established under [section 35](#);

"**small scale contractor**" means a contractor registered as a small scale contractor in accordance with [section 12](#);

"**supplier**" means a person, firm or company that provides, makes available, furnishes, equips, fills, compensates or substitutes construction materials, tools and equipment through trading;

"**temporary registration**" means the short-term registration of a contractor to enable the contractor undertake one off construction works or to execute a one off specialised construction works contract, for a period not exceeding six months;

"**tribunal**" means an *ad hoc* tribunal to determine appeals constituted in accordance with [section 46](#);

"**Vice-Chairperson**" means the person elected as Vice-Chairperson of the Board in accordance with [section 7](#);

"**youth**" has the meaning assigned to the word in the Constitution;

*[Cap. 1]*

"**Zambian contractor**" means—

- (a) in the case of an individual, a contractor who is a citizen; or
- (b) in the case of a firm or company or body of persons, whether corporate or unincorporate, a contractor wholly owned by a citizen;

"**Zambia Institute of Architects**" means the Zambia Institute of Architects established under the Zambia Institute of Architects Act;

*[Cap. 442]*

"**Zambia Public Procurement Agency**" means the Zambia Public Procurement Agency established under the Public Procurement Act, 2020; and

*[Act No. of 2020]*

"**Zambia Qualifications Authority**" means the Zambia Qualifications Authority established under the Zambia Qualifications Authority Act, 2011.

*[Act No. 13 of 2011]*

### 3. Principles governing regulation of construction industry

The following principles apply to construction under this Act:—

- (a) competition and transparency in undertaking construction works;
- (b) fair application of directions and criteria applicable to construction works;
- (c) decision-making in an accountable manner in registration and approvals processes; and
- (d) the achievement of value for money by ensuring that procuring entities obtain maximum benefits for procurement of construction works.

## Part II – The National Council for Construction

### 4. Continuation of National Council for Construction

- (1) The Council established under the repealed Act shall continue to exist as if established under this Act.
- (2) The First Schedule applies to the Council.



## 5. Functions of Council

Subject to any other written law, functions of the Council are to—

- (a) regulate and promote the construction industry in the Republic;
- (b) advise and make recommendations to the Government on matters affecting or connected with the construction industry, and on the control of construction works and safety in construction;
- (c) promote the prioritisation of a Zambian contractor in the procurement of construction works and accessing opportunities in the construction industry in accordance with this Act and any other written law;
- (d) assess the performance of registered contractors in the execution of construction works and establish a performance record for registered contractors;
- (e) establish minimum standards and best practice assessment schemes for the construction industry;
- (f) promote the adoption of internationally recognised environmental management, health and safety standards for the construction industry, approved by an appropriate authority;
- (g) promote the development of local contractors, in consultation and collaboration with an appropriate authority;
- (h) promote research, development and innovation in the construction industry;
- (i) promote the efficient use of resources for infrastructure development and advise the Government on the measures and interventions that need to be put in place and implemented for infrastructure development;
- (j) set and implement, safety standards for the construction industry, in collaboration with an appropriate authority;
- (k) make available to the public published information relating to the construction industry;
- (l) advise and assist the public on matters relating to the construction industry;
- (m) promote and maintain competition among contractors, professionals or other persons engaged in the construction industry;
- (n) promote quality control of construction works, processes and construction materials;
- (o) collaborate with the professional bodies and other relevant bodies on matters concerning the development of the construction industry in the Republic;
- (p) promote the use of alternative dispute resolution mechanisms for the construction industry; and
- (q) provide guidance and advice on construction related matters.

## 6. Provision of standards for construction

- (1) The Council shall, on the request of a public or private body, provide guidance or information to procuring entities on standards for construction works, construction materials, grades of contractors and categories under which registered contractors are classified.
- (2) The Council shall make available a list of approved standards for construction works and construction materials developed by relevant appropriate authorities.

## 7. Board of Council

- (1) There is constituted a Board of the Council which consists of the following part-time members appointed by the Minister:
  - (a) a representative of the ministry responsible for—
    - (i) housing and infrastructure development; and
    - (ii) local government;
  - (b) a representative of the Attorney-General;
  - (c) a representative of the Quantity Surveyors Registration Board, who is a registered quantity surveyor;
  - (d) a representative of the Engineering Institution of Zambia, who is a member of the Association of Consulting Engineers of Zambia;
  - (e) a representative of the Zambia Institute of Architects, who is an architect;
  - (f) a representative of the Technical Educational Vocational and Entrepreneurship Training Authority;
  - (g) one representative from an association of contractors; and
  - (h) one other person with relevant knowledge and expertise in construction.
- (2) The ministries, organisations and institutions referred to in subsection (1) shall nominate their representatives for appointment by the Minister.
- (3) The Minister shall appoint the Chairperson of the Board from among the members.
- (4) The members shall elect the Vice-Chairperson of the Board from among themselves.
- (5) A person shall not be nominated or appointed as a member of the Board if that person—
  - (a) is an undischarged bankrupt;
  - (b) is convicted of an offence involving fraud or dishonesty;
  - (c) is convicted of an offence under any written law and sentenced to imprisonment for a period exceeding six months without the option of a fine within a period of five years preceding the appointment or nomination; or
  - (d) is found guilty of professional misconduct.

## 8. Functions of Board

The Board shall, subject to the provisions of this Act—

- (a) oversee the implementation and successful operationalisation of the policies and functions of the Council;
- (b) promote effective governance of the Council;
- (c) provide strategic direction to the Council;
- (d) approve the annual work-plan and activity programmes of the Council;
- (e) approve the annual budget estimates of the Council; and
- (f) establish and approve rules and procedures for the appointment, discipline and termination of the staff of the Council.

## 9. Executive Director and other staff

- (1) The Board shall appoint an Executive Director who shall be—
  - (a) the chief executive officer and Secretary of the Council; and
  - (b) responsible for the day-to-day administration of the Council.
- (2) The Board shall appoint other staff of the Council that the Board considers necessary for the performance of the functions of the Council.
- (3) The Emoluments Commission shall, on the recommendation of the Board, determine the emoluments of the Executive Director and other staff of the Council.
- (4) The Board shall determine the terms and conditions of service, other than emoluments of the Executive Director and other staff of the Council.
- (5) The Executive Director shall attend meetings of the Board or a committee of the Board and may address those meetings but shall have no vote.

## Part III – Regulation of contractors and construction industry

### Registration of contractor

#### 10. Prohibition from carrying on business as contractor without registration

- (1) A person shall not carry on business in the construction industry, without registering as a contractor under this Act.
- (2) A person shall not be considered to be carrying on business within the meaning of this Part by reason only of the performance of that person's functions as an employee.
- (3) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

#### 11. Application for registration as contractor

- (1) A person shall apply to the Council for registration as a contractor in the prescribed manner and form on payment of the prescribed fee.
- (2) The Council may determine different fees for different grades and classes of contractors.
- (3) The Council may, within thirty days of receipt of an application under subsection (1), grant or reject the application.
- (4) The Council shall, where it rejects an application under subsection (3), inform the applicant and give the reasons for the decision.

#### 12. Registration of contractors

- (1) The Council shall, within fourteen days of the approval of an application under [section 11](#), issue the applicant with a certificate of registration if the applicant—
  - (a) has the necessary capability, experience, resources, equipment and facilities to undertake construction works in the category being applied for;
  - (b) has legal capacity to enter into a contract for construction works;

- (c) is not insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to insolvency, receivership or bankruptcy;
  - (d) holds a construction qualification from a training institution recognised by the Zambia Qualifications Authority;
  - (e) has not, during a period preceding the application, been convicted of—
    - (i) corrupt or fraudulent practices; or
    - (ii) any other offence that would disqualify the contractor from participating in procurement of construction works; and
  - (f) meets other requirements that may be prescribed.
- (2) The Council may request an appropriate authority, a public or private body or the applicant to provide evidence or information establishing that the criteria, specified in subsection (1), has been satisfied and may accept as sufficient evidence—
- (a) a certificate issued by an appropriate authority, public or private body relating to any issue in question;
  - (b) a solemn declaration made by the applicant, on oath or affirmation, testifying to any issue in question;
  - (c) the production of an extract from a judicial record, or an equivalent document issued by a competent court, relating to any issue in question; or
  - (d) any other relevant information the Council may consider appropriate.
- (3) The Council shall register a contractor as a large scale contractor, medium scale contractor and small scale contractor in accordance with the grade and class of registration established under [section 14](#).
- (4) Subject to this Act, a certificate of registration granted under subsection (1) is valid for one year from 1st January to 31st December in each year.
- (5) A registered contractor shall display the certificate of registration issued under this Act in a conspicuous place at the registered contractor's principal place of business and a certified copy of the certificate of registration at every subsidiary premises where the registered contractor carries on business.

### **13. Grant of temporary certificate of registration to contractor**

Subject to this Act, the Council may grant a temporary certificate of registration on prescribed terms and conditions, to a foreign contractor who wishes to undertake construction works for a period not exceeding six months.

### **14. Grading and classification of contractors**

- (1) The Council shall establish grades and classes in respect of registered contractors and maintain a record of the number of registered contractors in each grade and class.
- (2) The Council shall, in determining the grade and class of a contractor, assess the size of the firm or company carrying out construction works, the nature of construction works undertaken by that firm or company and the number of technical staff operating within that firm or company.
- (3) The Minister shall prescribe the qualifications for each grade and class, limits or criteria for each classification of contractors and the conditions on which a registered contractor can upgrade from one grade or class to another.

- (4) A registered contractor shall not undertake construction work in a grade or class in respect of which that contractor is not graded or classified.
- (5) A registered contractor who contravenes subsection (4)—
  - (a) in the case of a first contravention, shall be deregistered by the Council and the certificate of registration shall be cancelled in accordance with [section 17](#); and
  - (b) commits an offence, in the case of a second or subsequent contravention, and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both, and the certificate of registration shall be cancelled in accordance with [section 17](#).

### **15. Renewal of certification of registration and annual fee**

- (1) A registered contractor may, three months before the expiration of the period of validity of the certificate, apply to the Council for renewal of a certificate of registration in the prescribed manner and form on payment of a prescribed fee.
- (2) The Council shall, within thirty days of receiving an application for the renewal of a certificate of registration, approve or reject the application and give reasons where it rejects the application for renewal of the certificate.
- (3) A holder of a certificate of registration who submits an application for the renewal of a certificate of registration in accordance with subsection (1), shall continue to operate the business or activity until a decision is made by the Council on the application.
- (4) A person who applies for a renewal of a certificate of registration later than the time stipulated in subsection (1) may be liable to pay a penalty for late registration as may be prescribed.

### **16. Changes in detail of contractor**

A registered contractor under this Act shall notify the Executive Director of any change in the particulars relating to the registration within seven days of the change.

### **17. Suspension and cancellation of registration**

- (1) Subject to other provisions of this Act, the Council may suspend or cancel the registration of a contractor if the registered contractor—
  - (a) obtained the registration on the basis of fraud, misrepresentation or concealment of a material fact;
  - (b) has ceased to carry on business in the construction industry in the Republic, for a prescribed period;
  - (c) fails to comply with any term or condition of the certificate of registration;
  - (d) operates the registered business activity in contravention of this Act or any other relevant written law; and
  - (e) is found guilty of professional misconduct.
- (2) The Council shall, not less than thirty days before suspending or canceling the registration of a contractor in accordance with subsection (1), notify the registered contractor of its intention to suspend or cancel the registration giving reasons for its decision and requesting the registered contractor to show cause, within a period as the Council shall specify in the notice why the registration of the contractor shall not be suspended or cancelled.

- (3) Where the Council is not satisfied with the reasons advanced by the contractor, under subsection (2), the Council shall proceed to suspend or cancel, the registration, stating the reasons for that suspension or cancellation.
- (4) The Council may, before cancelling the registration of a contractor, suspend the contractor for a period on terms and conditions that the Council may determine.
- (5) Where the Council cancels the registration of a contractor, in accordance with subsection (3), the Council shall—
  - (a) remove the name and other particulars of the contractor from the register of contractors;
  - (b) notify the contractor of the Council's decision and the reasons for the decision, within seven days of the date of the decision; and
  - (c) publish in a daily newspaper of general circulation in the Republic or any electronic media the name of the contractor whose registration has been cancelled.

## 18. Re-registration

Where a certificate of registration is cancelled or suspended under [section 17](#), the holder of the certificate of registration may apply to the Council for re-registration, in accordance with this section on the terms and conditions that the Council may determine.

## 19. Best practice contractor recognition scheme

The Council shall establish a best practice contractor recognition scheme which shall—

- (a) enable the Government to manage risk on complex contracting strategies; and
- (b) promote the development of registered contractors in relation to best practice standards and guidelines developed by the Council.

## Registration of manufacturers and suppliers

## 20. Monitoring compliance with standards for construction materials by manufacturers or suppliers

The Council shall, in consultation with an appropriate authority, ensure that a manufacturer or supplier of construction material complies with the standards set for construction materials under any written law.

## 21. Application for registration as manufacturer or supplier of construction material

- (1) A person shall apply to the Council for registration as a manufacturer or supplier of construction material in the prescribed manner and form, on payment of the prescribed fee.
- (2) The Council may, within thirty days of receipt of an application under subsection (1), grant or reject the application.
- (3) The Council may reject an application for registration as a manufacturer or supplier of construction material if the—
  - (a) applicant fails to meet the requirements under this Act; or
  - (b) the construction material does not conform to the standards or compulsory standards set under the Standards Act, 2017, Compulsory Standards Act, 2017 or any other written law.

*[Act [No. 4 of 2017](#); Act [No. 3 of 2017](#)]*

- (4) The Council shall, where it rejects an application under subsection (3), inform the applicant accordingly and give the reasons for the rejection.

## **22. Registration of manufacturer or supplier of construction material**

- (1) The Council shall, within fourteen days of the approval of an application, issue the applicant with a certificate of registration as a manufacturer or supplier of construction material in the prescribed manner and form.
- (2) A certificate of registration issued under subsection (1) is valid for one year, unless suspended or cancelled in accordance with this Act.
- (3) A registered manufacturer or supplier shall display the certificate of registration issued in accordance with this Act in a conspicuous place at the registered manufacturer or supplier's principal place of business and a certified copy of the certificate of registration at every subsidiary premises where the registered manufacturer or supplier carries on business.

## **23. Prohibition of manufacture, supply or sale of substandard construction materials**

- (1) A person registered under this Act shall not manufacture, supply or sell construction materials that do not conform with the standards or compulsory standards set in accordance with the Standards Act, 2017, the Compulsory Standards Act, 2017 or any other standards set in accordance with any other written law.

*[Act No. 4 of 2017; Act No. 3 of 2017]*

- (2) A person registered under this Act shall not knowingly use construction materials that do not conform to the standards referred to under subsection (1).
- (3) A person who contravenes subsection (1) or (2) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

## **24. Change in details of manufacturer or supplier**

A registered manufacturer or supplier shall notify the Executive Director of any change in the particulars relating to the registration within seven days of the change.

## **25. Regulations for registration of manufacturer or supplier**

The Minister may, in consultation with the Council, prescribe—

- (a) the conditions for registration as manufacturer or supplier of construction material;
- (b) the information and documents to be submitted with an application for registration as a manufacturer or supplier;
- (c) the procedure and conditions for renewal of certificate of registration as a manufacturer or supplier;
- (d) the procedure and conditions for suspension and cancellation of a certificate of registration as a manufacturer or supplier; and
- (e) any other matters, incidental or, connected with an application for registration as manufacturer or supplier of construction material.

## Certificates in general

### 26. Deemed grant of application

Where the Council does not inform the applicant of the Council's decision in respect of the application within the period specified by the Act, the certificate of registration is deemed to have been granted.

### 27. Prohibition of transfer of certificate of registration

A certificate of registration issued under this Act shall not be transferred to a third party.

### 28. Duplicate certificate of registration

- (1) A person whose certificate of registration is destroyed or lost may apply to the Executive Director for a duplicate certificate in the prescribed manner and form, on payment of a prescribed fee.
- (2) The Executive Director may, within seven days of receipt of an application under subsection (1), issue a duplicate certificate of registration to the applicant.

### 29. Certificate of status

- (1) A person may apply to the Executive Director for a certificate of status containing particulars relating to the registration of a contractor, manufacturer or supplier of construction material in the prescribed manner and form, on payment of the prescribed fee.
- (2) The Executive Director may, on receipt of an application under subsection (1), issue a certificate of status to the applicant in the prescribed form.

### 30. Surrender of certificate of registration as contractor, manufacturer or supplier

- (1) Where a registered contractor or a registered manufacturer or supplier of construction materials decides not to continue operating the registered business or activity, the registered contractor or registered manufacturer or supplier shall notify the Council, in writing and surrender the certificate of registration issued under this Act to the Council.
- (2) Where a certificate of registration is surrendered, in accordance with subsection (1), the Council shall cancel the certificate, subject to terms and conditions that the Council may determine with respect to the registered business activity.

## Registration of construction projects

### 31. Registration of construction projects

- (1) The Minister may, in consultation with the Council, prescribe—
  - (a) the type of projects to be registered;
  - (b) the manner and form of registration of construction projects;
  - (c) the fee to be paid to the Council for the registration of a construction project; and
  - (d) any other matter, incidental or, connected with the registration of construction projects.
- (2) The Council shall monitor all construction projects registered in accordance with this Act.



### 32. Best practice project assessment scheme

- (1) The Council shall establish a best practice project assessment scheme based on best practices that the Council may determine.
- (2) After a date determined by the Minister and published in the *Gazette*, all construction contracts above a prescribed contract value shall be subject to a best practice project assessment in accordance with the best practice project assessment scheme.
- (3) A registered contractor who is engaged under the best practice project assessment scheme shall pay to the Council a fee that may be prescribed.

## Registers

### 33. Registers

- (1) The Council shall keep and maintain, a register of contractors which shall contain—
  - (a) the name, address and other particulars of registered contractors;
  - (b) the grade and class in respect of which each contractor is registered;
  - (c) the size of the enterprise of each registered contractor and extent to which the business operates at national, regional, continental or intercontinental level;
  - (d) details on whether a registered contractor carries on business as a sole proprietor, firm or company;
  - (e) the number, nature and performance of registered contractors in a specific grade or class; and
  - (f) any other information that the Council may determine.
- (2) The Council shall keep and maintain a register of construction projects of prescribed value which shall contain—
  - (a) the registered contractor undertaking the project;
  - (b) the nature of the project;
  - (c) the value and distribution of projects in the construction industry falling within the values prescribed; and
  - (d) any other information that the Council may determine.
- (3) The registers shall be kept in the custody of the Executive Director at the offices of the Council and shall be open for inspection by members of the public during normal office hours on payment of a prescribed fee.
- (4) The Council may, on an application by a person, issue to the person a certified extract from the register of a copy of a certificate of registration, on payment of the prescribed fee.

### 34. Publication of copies of register

- (1) The Executive Director shall, on the direction of the Board, cause copies of a register under this Act, and any alteration of, or additions to, that register to be published in the *Gazette* and a daily newspaper of general circulation in the Republic.
- (2) Subject to this Act, a copy of the last printed and published register shall be *prima facie* evidence of what is contained in that register and the absence of any name from that copy shall be *prima facie* evidence that the person is not registered.

## Registration of National Construction School

### 35. Registration of National Construction School

- (1) The Construction School established under the repealed Act is re-named as the National Construction School.
- (2) The National Construction School shall—
  - (a) conduct training for technical staff in construction and construction related subjects;
  - (b) provide courses in labour based technology;
  - (c) provide courses or training skills for personnel in the construction industry;
  - (d) offer courses in research and consultancy for persons in the field of construction; and
  - (e) provide for and offer other capacity building programmes that the Council considers necessary.

## Part IV – Inspections

### 36. Inspectors

- (1) The Council may appoint a suitably qualified person to be an inspector for the purposes of enforcing compliance with this Act, on terms and conditions that it may determine.
- (2) The Council shall provide an inspector with an identification card and certificate of appointment, in the prescribed form, which shall be *prima facie* evidence of that inspector's appointment.
- (3) An inspector shall, in performing any function under this Act—
  - (a) be in possession of the identification card referred to in subsection (2); and
  - (b) show the identification card to any person who requests to see it or is subject to an inspection or investigation under this Act.
- (4) An inspector may, for the purpose of enforcing the provisions of this Act, at any reasonable time, and on the Council of a warrant, enter any premises, construction site, vehicle or other conveyance that the inspector has reasonable grounds to believe is used for the commission of an offence or purposes contrary to the provisions of this Act, and —
  - (a) search the premises, construction site, vehicle or other conveyance, or the premises of a contractor, manufacturer or supplier of construction materials, or a person regulated under this Act, including a private dwelling, where information or documents which may be relevant to an inspection may be kept or which are being used for the commission of an offence under this Act;
  - (b) search a person on the premises if the inspector has reasonable grounds to believe that the person has possession of an article, document, record or construction material that has a bearing on an investigation, except that a person shall only be searched by a person of the same sex;
  - (c) examine any article, document, record, book or construction material found on the premises that has a bearing on an inspection or investigation;
  - (d) require information to be given about an article, document, record, book or construction material in any premises by—
    - (i) the owner of the premises;

- (ii) the person in control of the premises;
  - (iii) a person who has control of the article, document, record, book or construction material; or
  - (iv) any other person who may have the information;
  - (e) seize an article, document, record, book or construction material that has a bearing on an inspection or investigation or is used for purposes contrary to the provisions of this Act;
  - (f) take extracts from, or make copies of, a document, record or book found on the premises that has a bearing on an inspection or investigation;
  - (g) use a computer system or any other electronic device on the premises, or require the assistance of a person on the premises to use that computer system or electronic device to—
    - (i) search any data contained in, or available to, the computer system or electronic device;
    - (ii) reproduce any record from the data; or
    - (iii) seize any output from the computer or electronic device for examination and copying; and
  - (h) attach and, if necessary, remove from the premises for examination and safeguarding an article, document, record, book or construction material that has a bearing on an inspection or investigation.
- (5) An inspector who removes an article, document, record, book or construction material from any premises under subsection (4) shall—
- (a) issue a receipt for the article, document, record, book or construction material to the owner, or person in control of, the premises; and
  - (b) return the article, document, record, book or construction material as soon as practicable after achieving the purpose for which it was removed.
- (6) A person shall not—
- (a) delay, assault, threaten or obstruct an inspector in the performance of the inspector's functions;
  - (b) refuse to give an inspector reasonable assistance that the inspector may require for the purpose of exercising the inspector's powers;
  - (c) give an inspector false or misleading information in answer to an inquiry made by the inspector; or
  - (d) impersonate an inspector or present oneself to be an inspector.
- (7) A person who contravenes subsection (6) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.
- (8) Nothing in this section requires a person to disclose or produce information or a document if that person would in an action in a court be entitled to refuse to disclose or produce the information or document.

### **37. Additional powers of inspector**

- (1) An inspector may close down and secure a construction site that the inspector has reasonable grounds to believe is used for the commission of an offence or purposes contrary to this Act.

- (2) An inspector shall re-open the construction site referred to in subsection (1) as soon as practicable after an investigation is completed and it is determined that no offence has been committed on the construction site.

### **38. Report by inspector**

An inspector shall furnish the Council with a written report and any other information relating to an inspection, as the Council may require.

## **Part V – Capacity development measures and technical compliance**

### **39. Bidding documents for procurement of construction works**

A procuring entity shall, ensure that the bidding documents issued for the procurement of construction work conform to the requirements of the Public Procurement Act, 2020 and any other relevant written law.

*[Act No. of 2020]*

### **40. Prohibition of unregistered contractor bidding for construction works**

- (1) A contractor who is not registered in accordance with this Act shall not bid or provide a quotation for, or be permitted by a procuring entity or private body to bid or provide a quotation for, procurement of construction works.
- (2) A foreign bidder or supplier who participates in international competitive bidding or selection shall, within twenty-one days of being notified of an award of a contract for construction works in the Republic, register with the Council in accordance with this Act.
- (3) A person who contravenes subsection (1) or (2) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

### **41. Technical specifications, etc**

- (1) A procuring entity or private body shall ensure that all projects comply with the minimum technical specifications, quality, regulations and policies relating to construction works and environmental protection.
- (2) A procuring entity shall ensure that the procurement of construction works comply with regulations and policies that relate to—
  - (a) empowering citizens and local suppliers;
  - (b) promoting women, persons with disability and the youth; and
  - (c) achieving gender equality.

### **42. Citizen participation in construction works**

The Council may advise a procuring entity or private body on enhancing citizen participation in construction works.

### **43. Joint ventures with citizens**

- (1) Subject to this Act, a foreign contractor shall participate in a tender for construction works, if the foreign contractor bids for, and undertakes, the construction works as a joint venture with a Zambian contractor in a manner and to the extent as may be prescribed.

- (2) A foreign contractor shall, in undertaking a joint venture under subsection (1) comply with the requirements of this Act, the Public Procurement Act, 2020 and any other relevant written law.

[Act No. of 2020]

- (3) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units, or a term of imprisonment not exceeding five years, or to both.

#### **44. Subcontracting to small or medium scale registered contractor**

- (1) A registered foreign contractor or a large scale contractor who is awarded a contract for construction works of a prescribed value, shall subcontract a percentage of the contract value to a small or medium contractor as prescribed.
- (2) The Council may impose on a person who contravenes subsection (1) an administrative penalty.

### **Part VI – Complaints and appeals process**

#### **45. Reasons for decisions and right to be heard**

- (1) Where the Council makes a decision under this Act, the Council shall notify the person affected by the decision of the reasons for the decision and inform that person of the right to appeal the decision of the Council.
- (2) The Council may, on receipt of any representations made in accordance with subsection (1), reaffirm, revoke or vary its decision and notify the person accordingly.
- (3) A decision of the Council under subsection (1) shall remain in force unless revoked or varied by the Council.

#### **46. Appointment and convening of appeals tribunal**

- (1) Where an appeal is made to the Minister under [section 50](#) the Minister shall constitute and convene an *ad hoc* tribunal within fourteen days of receiving the appeal.
- (2) The tribunal shall consist of the following members, appointed by the Minister:
  - (a) a chairperson, who shall be a person qualified to be appointed as a Judge of the High Court; and
  - (b) two other members with knowledge and experience in law, construction, commerce or any other appropriate professional field relevant for purposes of the appeal.
- (3) The members of a tribunal shall be appointed on terms and conditions that may be specified in their letters of appointment.

#### **47. Powers of Appeals Tribunal**

- (1) A tribunal shall determine an appeal on its merits, taking into account this Act and any other relevant written law.
- (2) A tribunal may determine its own procedure and shall not be bound by rules of evidence.
- (3) A tribunal shall afford the appellant the right to appear personally or be represented by a practitioner or an agent.

#### **48. Decisions of tribunal**

- (1) A tribunal may confirm, vary or quash the decision of the Council on a matter before the tribunal.

- (2) A decision of a tribunal, except on a point of law, is final and binding on the parties to the appeal.
- (3) An appeal against a decision of a tribunal lies to the Court of Appeal.

#### **49. Tribunal rules**

The Chief Justice shall prescribe rules of procedure for an *ad hoc* tribunal convened under this Act.

### **Part VII – General provisions**

#### **50. Appeals**

A person aggrieved with a decision of the Council may, within fourteen days of receiving the decision, appeal to the Minister.

#### **51. Code of conduct and ethics for construction industry**

- (1) The Minister may, by statutory instrument, on the recommendation of the Council, prescribe a code of conduct and ethics for registered contractors, registered manufacturers and suppliers, and shall provide the sanctions for breach of the code of conduct and ethics.
- (2) Despite subsection (1), a registered contractor, registered manufacturer and supplier shall comply with the code of conduct or ethics applying to them under any other written law.

#### **52. Guidelines and practice codes**

- (1) The Council may, in the exercise of its functions under this Act, issue guidelines and practice codes that are necessary for the better carrying out of its functions under this Act.
- (2) The Council may publish, in the *Gazette*, and in any other manner it considers necessary, guidelines and practice codes and as it considers necessary—
  - (a) to ensure professionalism and enhance competence levels in the construction industry;
  - (b) for the furtherance of any of its regulatory functions;
  - (c) in relation to any matter relating to the functions of the Council or its operations; and
  - (d) to ensure compliance and enforcement of this Act.
- (3) The guidelines and practice codes issued by the Council under this Act shall bind the persons regulated under this Act.

#### **53. Monitoring and evaluation of projects, and programming for regulatory activities**

- (1) The Council shall ensure that projects of a prescribed value are subject to regular monitoring and evaluation for the purposes of compliance under this Act.
- (2) The Council may in undertaking the monitoring and evaluation of projects, referred to in subsection (1)—
  - (a) request any person or body to provide it with information and records relating to the project and construction materials;
  - (b) co-operate and work closely with other appropriate authorities; and
  - (c) on the recommendation of an inspector, refer a case to a relevant public or private body for action.

- (3) The Council may participate in any mechanism or programme providing—
- (a) systems for sharing information with other appropriate authorities and any law enforcement agency;
  - (b) common methodologies or standards for investigations and monitoring activities;
  - (c) joint teams to conduct monitoring and evaluation functions;
  - (d) joint capacity building training relating to monitoring and evaluation functions;
  - (e) work plans to avoid the duplication of effort or overlapping of investigations, inspections or monitoring activities; or
  - (f) the conduct of monitoring and evaluation of projects.

#### **54. Capacity building and professional development**

- (1) The Council may, in order to improve its regulatory capacity, facilitate capacity building and professional development courses for directors, technical staff and other officers, and shall develop standards, competence levels and certification requirements for officers, in consultation with the School and other appropriate authorities responsible for public sector training and development.
- (2) The Council shall, in developing standards, competence levels and certification requirements under subsection (1), take into account—
- (a) the different types, volumes and complexity of construction works and projects the Council has oversight functions over;
  - (b) the needs of small and medium scale contractors; and
  - (c) the different skills required by technical staff in undertaking, managing, authorising, monitoring and evaluating projects.

#### **55. Research and development**

The Council may, in collaboration with the School and other appropriate authorities, as part of its ongoing operations, carry out research and development to ensure the quality of construction works and construction materials, and upgrade of the construction industry including—

- (a) the improvement of the construction industry with respect to control of infrastructure, infrastructure codes and regulations, building maintenance and management and resource usage in infrastructure;
- (b) the expanded use of modern information systems technology, electronic data processing and communication systems by the Council for purposes of improving, strengthening, facilitating or regulating the construction industry;
- (c) action plans to make infrastructure and public spaces more inclusive and environmental friendly;
- (d) cooperating or liaising with appropriate research and scientific institutions in the development of new products and construction materials for the construction industry; or
- (e) engaging experts or advisers to assist the Council in undertaking general research, technical and scientific research and programmes.

#### **56. Information management and dissemination**

- (1) The Council may develop and implement systems for the publication and management of information in the construction industry.

- (2) The Council shall, in developing and implementing systems for the publication and management of information under subsection (1)—
  - (a) take into account the most efficient and economic use of the media;
  - (b) ensure that systems are accessible to intended users; and
  - (c) consider the ease of maintaining and updating the systems.
- (3) The Council may issue notices to appropriate authorities and other relevant persons relating to reports or information required by the Council for the effective carrying out of its functions under this Act, which notices may state the—
  - (a) type of data and information required;
  - (b) format for reports;
  - (c) time frames for the submission of the reports and other information; and
  - (d) any other information the Council may require.

### **57. Offences relating to registered contractor, manufacturer or supplier of construction material**

- (1) A person shall not—
  - (a) procure, or attempt to procure, registration under this Act, by fraud, false representation or the concealment of a material fact;
  - (b) forge a certificate of registration or other document issued under this Act;
  - (c) impersonate a registered contractor, registered manufacturer or supplier of construction material while not registered under this Act; or
  - (d) make or cause to be made an unauthorised entry, alteration or erasure in a register under this Act, or a certified copy of an entry in that register or a certificate of registration issued under this Act.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one million penalty units or to imprisonment for a term not exceeding ten years, or to both.

### **58. General offences**

- (1) A person shall not—
  - (a) undertake construction works for, or be subcontracted by, a contractor that is not registered in accordance with this Act;
  - (b) subcontract any construction work to a contractor that is not registered in accordance with this Act; or
  - (c) award to a contractor that is not registered any construction works.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.
- (3) Despite subsection (2), the Council may impose an administrative penalty on a person who contravenes subsection (1).



### **59. Offences committed partly in and partly out of Republic**

- (1) Where this Act provides that a person commits an offence where the person does a particular act, the offence is deemed to be committed in the Republic where the act is done partly outside the Republic.
- (2) Where this Act provides that a person commits an offence where the person does two or more particular acts, the offence is deemed to be committed in the Republic even where some of those acts are done outside the Republic.

### **60. Power of Council to compound certain offences**

Subject to written consent of the Director of Public Prosecutions and where the Council is satisfied after an investigation, or where a person admits that the person has committed an offence under this Act, the Council may compound the offence by collecting from that person a sum of money that the Council considers appropriate, but not exceeding fifty percent of the maximum amount of the fine to which that person would have been liable on conviction, and a person having made that payment shall not, thereafter, be prosecuted in relation to the offence so compounded.

### **61. Administrative penalties**

- (1) Subject to this Act, where the Council is satisfied, or where a person admits, that the person has contravened a provision of this Act which is not an offence, the Council may impose one or more of the following administrative sanctions—
  - (a) a caution not to repeat the conduct which led to the non compliance with a provision of this Act;
  - (b) a reprimand;
  - (c) a directive to take remedial action or to make specific arrangements to redress identified non compliance;
  - (d) the restriction or suspension of certain specified business activities;
  - (e) publication of a public notice of any prohibition or requirement imposed by the Council under this Act and of any rescission or variation thereof, and the notice may, if the Council considers necessary, include a statement of the reason for the prohibition, requirement, variation or rescission;
  - (f) a down grade from the current grade to a lower grade; and
  - (g) a financial penalty not exceeding two hundred thousand penalty units.
- (2) A person may, within thirty days of receipt of an administrative penalty, appeal to the Minister against the administrative penalty.

### **62. Offence by principal officer shareholder or partner of body corporate or unincorporate body**

Where an offence under this Act is committed by a body corporate or unincorporate body, with the knowledge, consent or connivance of the director, manager, shareholder or partner of the body corporate or unincorporate body, that director, manager, shareholder or partner of the body corporate or unincorporate body commits an offence and is liable, on conviction, to the penalty specified for that offence.

### 63. Regulations

- (1) The Minister may, in consultation with the Council, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.
- (2) Without prejudice to the generality of subsection (1), regulations may provide for—
  - (a) the procedure for the registration of contractors and manufacturers and suppliers of construction material;
  - (b) the fees payable under this Act;
  - (c) the exemption of a person or institution from any of the provisions of this Act;
  - (d) the forms required to be prescribed for purposes of this Act;
  - (e) the requirements and procedure for subcontracting;
  - (f) the requirements for construction projects;
  - (g) safety and health requirements on construction sites;
  - (h) safety clothing to be worn by a person on a construction site; and
  - (i) any other matters required to be prescribed.

### 64. Repeal of Act **No. 13 of 2003**

- (1) The National Council for Construction Act, 2003, is repealed.
- (2) Despite subsection (1), the Second Schedule applies to the savings and transitional arrangements.
- (3) An application pending before the National Council for Construction under the repealed Act shall be deemed to have been made to the Council under this Act.
- (4) A certificate of registration or authorisation granted under the repealed Act shall be deemed, until the certificate of registration or authorisation expires, to have been granted under this Act.

## First Schedule (Section 4(2))

### Part I – Administration of Council

#### 1. Tenure of office and vacancy

- (1) Subject to the other provisions of this Act, a member of the Board shall hold office for a period of three years and may be reappointed for one further period of three years.
- (2) A member may resign on giving one month's notice, in writing, to the Minister.
- (3) The office of a member becomes vacant if the member—
  - (a) dies;
  - (b) resigns;
  - (c) is absent, without reasonable excuse, from three consecutive meetings of the Board of which the member has had notice without the approval of the Board;
  - (d) is adjudged bankrupt;

- (e) is convicted of an offence under this Act or any other written law and sentenced to imprisonment for a period exceeding six months without the option of a fine;
  - (f) ceases to hold the office by virtue of which the member was appointed; and
  - (g) is legally disqualified from performing the duties of a member.
- (4) On the expiration of the period for which a member is appointed, the member shall continue to hold office until a successor has been appointed but in no case shall the further period exceed four months.
- (5) The Minister shall, whenever the office of a member becomes vacant before the expiry of the term of office, appoint another person in place of that member but that person shall hold as a member only for the unexpired part of the term of the Board.

## 2. Seal of Council

- (1) The seal of the Council shall be a device that may be determined by the Council and shall be kept by the Executive Director.
- (2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Executive Director or any other person authorised in that behalf by a resolution of the Board.
- (3) A contract or instrument which if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Council by the Executive Director or any other person generally or specifically authorised by the Board in that behalf.
- (4) A document purporting to be a document under the seal of the Council or issued on behalf of the Council shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

## 3. Proceedings of Board

- (1) Subject to the other provisions of this Act, the Board may regulate its own procedure.
- (2) The Board shall meet for the transaction of business at least once in every three months at such places and times as the Board may determine.
- (3) A meeting of the Board may be called by the Chairperson, on giving notice of not less than fourteen days, and shall be called by the Chairperson if one third or more of the members so request in writing, except that if the urgency of a particular matter does not permit the giving of the notice, a special meeting may be called on giving a shorter notice.
- (4) Six members shall form a quorum at a meeting of the Board.
- (5) There shall preside at a meeting of the Board—
- (a) the Chairperson;
  - (b) in the absence of the Chairperson, the ViceChairperson; and
  - (c) in the absence of the Chairperson and the ViceChairperson, other member that the members present may elect for the purpose of that meeting.
- (6) A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to that person's deliberative vote.
- (7) A member who is for any reason unable to attend a meeting of the Board may, in writing, nominate another person from the same organisation to attend the meeting in that member's stead and that person shall be deemed to be a member for the purpose of that meeting.

- (8) The Board may invite a person, whose presence is in its opinion desirable to attend and participate in the deliberations of the meeting of the Board, but that person shall have no vote.
- (9) The validity of any proceedings, acts or decisions of the Board shall not be affected by a vacancy in the membership of the Board or by a defect in the appointment of a member or by reason that a person not entitled to do so, took part in the proceedings.
- (10) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board and of every meeting of a committee of the Board.

#### 4. Committees

- (1) The Board may, for the purpose of performing its functions under this Act, constitute committees that it considers necessary and may delegate to the committees its functions as it considers necessary.
- (2) The Board may appoint as members of a committee, persons who are, or are not, members of the Board, except that at least one member of a committee shall be a member of the Board.
- (3) A person serving as a member of a committee shall hold office for a period as the Board may determine.
- (4) Subject to any specific or general direction of the Board, a committee may regulate its own procedure.

#### 5. Emoluments

A member of the Board or a committee of the Board shall be paid an emolument that the Emoluments Commission may determine.

#### 6. Disclosure of interest

- (1) A person who is present at a meeting of the Board or any committee of the Board at which a matter is the subject of consideration, and in which matter that person or that person's relative or associate is directly or indirectly interested in a private capacity, shall, as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the Board or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter.
- (2) A declaration of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.
- (3) A person who contravenes subparagraph (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

#### 7. Immunity

An action or other proceeding shall not lie or be instituted against a member of the Board, committee of the Board or a member of staff of the Council for, or in respect of, an act or thing done or omitted to be done in good faith in the exercise or performance of any of the powers conferred under this Act.

#### 8. Prohibition of publication or disclosure of information to unauthorised person

- (1) A person shall not, without the consent in writing given by or on behalf of the Board, otherwise than in the course of duties of that person, publish or disclose to any other person, the contents of any document, communication or information, which relates to, or which has come to the knowledge of that person in the course of that person's duties under this Act.
- (2) A person who contravenes subparagraph (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

## Part II – Financial provisions

### 9. Funds of Council

- (1) The funds of the Council consist of monies that may—
  - (a) be appropriated by Parliament;
  - (b) be paid to the Council by way of fees, grants or donations; and
  - (c) vest in or accrue to the Council.
- (2) The Council may, subject to the approval of the Minister—
  - (a) accept monies by way of grants or donations from any source within or outside the Republic; and
  - (b) raise by way of loans or otherwise, such monies as it may require for the discharge of its functions.
- (3) There shall be paid from the funds of the Council—
  - (a) the emoluments of the members of staff of the Council;
  - (b) reasonable traveling and other allowances for the members and the members of any committee when engaged in the business of the Council, at rates that the Emoluments Commission may determine; and
  - (c) any other expenses incurred by the Council in the performance of its functions under this Act.
- (4) The Council may, with the approval of the Minister, invest in a manner that it considers appropriate funds of the Council that the Council does not immediately require for the discharge of the Council's functions.

### 10. Financial year

The financial year of the Council shall be a period of twelve months ending on 31st December in each year.

### 11. Accounts and audit

- (1) The Council shall cause to be kept proper books of accounts and other records relating to its accounts.
- (2) The accounts of the Council shall be audited annually by the Auditor-General or an auditor appointed by the Auditor-General.
- (3) The Auditor-General's fees shall be paid by the Council.

### 12. Annual report

- (1) As soon as is practicable, but not later than ninety days after the end of the financial year, the Council shall submit to the Minister a report concerning its activities during the financial year.
- (2) The report referred to in subparagraph (1) shall include information on the financial affairs of the Council and there shall be appended to the report—
  - (a) an audited statement of financial position;
  - (b) an audited statement of comprehensive income; and
  - (c) such other information, as the Minister may require.

- (3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subparagraph (1), lay the report before the National Assembly.

## **Second Schedule (Section 64 (2))**

### **Part I – Savings and transitional provisions relating to the National Council for Construction**

1. In this Schedule, "former Council" means the Council established under the repealed Act.
2. **Staff of Council**
  - (1) A person who, before the commencement of this Act, was an employee of the former Council, shall continue to be an employee of the Council as if employed under this Act.
  - (2) Nothing in this Act affects the rights and liabilities of a person employed or appointed by the former Council before the commencement of this Act.
  - (3) The service of the persons referred to in subparagraph (1) shall be treated as continuous service.
3. **Transfer of assets and liabilities**
  - (1) On or after the commencement of this Act, there shall be transferred to, vest in and subsist against the Council by virtue of this Act and without further assurance all assets, rights, liabilities and obligations as the Minister may specify which immediately before that date were the assets, rights, liabilities and obligations of the former Council.
  - (2) Subject to subparagraph (1), every deed, bond and agreement, other than an agreement for personnel service, to which the former Council was a party immediately before the commencement of this Act, whether or not of such a nature that rights, liabilities and obligations could be assigned shall, unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this paragraph, have effect as if—
    - (a) the Council had been party to it;
    - (b) for any reference to the former Council there were substituted, with respect to anything falling to be done on or after the commencement of this Act, a reference to the Council; or
    - (c) for any reference to any officer of the former Council, not being a party to it and beneficially interested, there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to such officer of the Council as the Council shall designate.
  - (3) Where under this Act, any assets, rights, liabilities and obligations of the former Council are deemed to be transferred to the Council in respect of which transfer a written law provides for registration, the Council shall make an application, in writing, to the appropriate registration Council for registration of the transfer.
  - (4) The registration Council, referred to in subparagraph (3), shall make entries in the appropriate register that shall give effect to the transfer and, where applicable, issue to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register and shall endorse the deeds relating to the title, right or obligation concerned and no registration fees or other duties shall be payable in respect of the transaction.
  - (5) The Minister shall, by statutory instrument, on the commencement of this Act provide for the transfer of such assets, liabilities, rights and obligations of the former Council relating to the functions to be performed by the Council.

#### 4. Legal proceedings

- (1) Any legal proceedings or application of the former Council pending immediately before the commencement of this Act by or against the former Council may be continued by or against the Council.
- (2) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the former Council, may be instituted by or against the former Council.

### **Part II – Savings and transitional provisions relating to the National Construction School**

#### 5. Interpretation

In this Part of the Schedule, "former school" means the Construction School established under the repealed Act.

#### 6. Staff of school

- (1) A person who, before the commencement of this Act, was an employee of the former school, shall be transferred to the service of the School as an employee of the School as if employed under this Act.
- (2) Nothing in this Act affects the rights and liabilities of a person employed or appointed by the former school before the commencement of this Act.
- (3) The service of the persons referred to in subparagraph (1) shall be treated as continuous service.

#### 7. Transfer of assets and liabilities of former school

- (1) On or after the commencement of this Act, there shall be transferred to, vest in and subsist against the school by virtue of this Act and without further assurance all assets, rights, liabilities and obligations as the Minister may specify which immediately before that date were the assets, rights, liabilities and obligations of the former school.
- (2) Subject to subparagraph (1), every deed, bond and agreement, other than an agreement for personnel service, to which the former school was a party immediately before the commencement of this Act, whether or not of such a nature that rights, liabilities and obligations could be assigned shall, unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this paragraph, have effect as if—
  - (a) the School had been party to it;
  - (b) for any reference to the former school there were substituted, with respect to anything falling to be done on or after the commencement of this Act, a reference to the School; or
  - (c) for any reference to any officer of the former school, not being a party to it and beneficially interested, there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to such officer of the School as the School shall designate.
- (3) Where under this Act, any assets, rights, liabilities and obligations of the former school are deemed to be transferred to the School in respect of which transfer a written law provided for registration, the School shall make an application, in writing, to the appropriate registration Council for registration of the transfer.
- (4) The registration Council referred to in subparagraph (3), shall make entries in the appropriate register that shall give effect to the transfer and, where applicable, issue to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the

register and shall endorse the deed relating to the title, right or obligation concerned and no registration fees or other duties shall be payable in respect of the transaction.

- (5) The Minister shall, by statutory instrument, on the commencement of this Act provide for the transfer of such assets, liabilities, rights and obligations of the former school relating to the functions to be performed by the school.

#### **8. Legal proceedings**

- (1) Any legal proceedings or application of the former school pending immediately before the commencement of this Act by or against the former school may be continued by or against the School.
- (2) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the former school, may be instituted by or against the School.