

ARCHITECTS' REGISTRATION (AMENDMENT) ACT, 2014

No. 16



of 2014

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An Act to amend the Architects' Registration Act.

Date of Assent: 14.05.2014

Date of Commencement: ON NOTICE

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Architects' Registration (Amendment) Act, 2014 and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint.

2. The Architects' Registration Act, (hereinafter referred to as "the Act") is amended in section 2 —

Short title and commencement

Amendment of section 2 of Cap. 61:08

(a) by substituting for the definition of the word “register” the following new definition —

““register” means the register of architects, architectural technologists and architectural draftspersons established and maintained under section 22;” and

(b) by inserting the following new definitions in their correct alphabetical order —

““architectural draftsperson” means a person who is registered as an architectural draftsperson under section 24;

“architectural technologist” means a person who is registered as an architectural technologist under section 24; and

“work of an architect” means the sole production, or production under direct supervision by a registered architect, and necessary preparatory work, thereto, of building designs and related works, technical documentation and site inspection for such building or works, whether or not coordinated with engineering requirements.”.

Amendment
of
section 7
of the Act

3. Section 7 of the Act is amended by inserting immediately after subsection (2), the following new subsection —

“(3) The Council may in exercising its powers under subsection (2) (b) determine, after consultation with the Botswana Training Authority, conditions relating to —

(a) the nature and extent of continuing education and training for architects, architectural technologists and architectural draftspersons;

(b) the nature and extent of education and training for trainee architects, trainee architectural technologists and trainee architectural draftspersons; and

(c) the nature and extent of continuing professional development for architects, architectural technologists and architectural draftspersons.”.

Amendment
of section 22
of the Act

4. Section 22 of the Act is amended by inserting immediately after the word “architect” wherever it appears in that section the words “, architectural technologist or architectural draftsperson”.

Amendment
of section 23
of the Act

5. The Act is amended by substituting for section 23, the following new section —

“Qualification
for
registration 23. (1) A person shall qualify for registration as an architect where the person —

(a) has —

(i) a professional degree in architecture or, such equivalent qualification as may be prescribed, and

(ii) performed the work of an architect under the direction and control of, and in the same office as an architect for such period as may be prescribed;

- (b) has —
 - (i) passed an examination prescribed by the Council or any examination recognised by the Council as being equivalent to the one so prescribed, and
 - (ii) for such period as may prescribed performed architectural work which in the opinion of the Council is of sufficient variety and of a satisfactory nature and standard for the purpose of registration as an architect; or
 - (c) is a member of an institution of architects, the membership of which is recognised by the Council as furnishing a sufficient guarantee of the required academic knowledge of, and practical experience in, architecture.
- (2) A person shall qualify for registration as an architectural technologist where the person —
- (a) has —
 - (i) a degree or diploma in architectural or construction technology or such other equivalent qualification as may be prescribed, and
 - (ii) for such period as may be prescribed by the Council, performed the work of an architect under the direction and control of, and in the same office as, an architect;
 - (b) has —
 - (i) passed an examination prescribed or any examination recognised as being equivalent to one so prescribed, and
 - (ii) for such period as may be prescribed, performed the work of an architect which in the opinion of the Council is of sufficient variety and of a satisfactory nature and standard for the purpose of registration as an architectural technologist;or
 - (c) is a member of an institution of architects, the membership of which is recognised by the Council as furnishing a sufficient guarantee of the required academic knowledge of, and practical experience in, architectural technology.
- (3) A person shall qualify for registration as an architectural draftsman where the person —
- (a) has —
 - (i) a certificate in architectural or building technology and draftsmanship or such equivalent qualification as may be prescribed by the Council, and
 - (ii) for such period as is prescribed, performed the work of an architect under the direction and control of, and in the same office as, an architect or an architectural technologist;

- (b) has —
- (i) passed an examination prescribed or any examination recognised as being equivalent to one so prescribed, and
 - (ii) for such period as may prescribed performed the work of an architect which in the opinion of the Council is of sufficient variety and of a satisfactory nature and standard for the purpose of registration as an architectural draftsman; or
- (c) is a member of an institution of architects, the membership of which is recognised by the Council as furnishing a sufficient guarantee of the required academic knowledge of, and practical experience in, architectural draftsmanship.”.

Amendment
of section 24
of the Act

6. Section 24 of the Act is amended in subsection (1) by inserting immediately after the word “architect” which appears in that subsection the words “, architectural technologist or architectural draftsman”.

Amendment
of section 25
of the Act

7. Section 25 of the Act is amended in subsection (1) (c) by inserting immediately after the word “architect” which appears in that subsection the words “, architectural technologist or architectural draftsman”.

Amendment
of section 26
of the Act

8. The Act is amended by substituting for section 26, the following new section —

“Certificate of registration and practising certificate 26. (1) Where the Registrar registers an architect, architectural technologist or architectural draftsman, he or she shall issue the architect, architectural technologist or architectural draftsman with a certificate of registration in such form as may be prescribed.

(2) There shall be paid to the Council in respect of each practising certificate to be issued, such annual practising fee as may be prescribed.

(3) Every practising certificate issued shall expire at the end of 12 months from the date of issue:

Provided that where the name of an architect, architectural technologist or architectural draftsman is removed from the register, the practising certificate of that architect, architectural technologist or architectural draftsman shall expire forthwith.

(4) On application by an architect, architectural technologist or architectural draftsman, the Registrar may issue, to the architect, architectural technologist or architectural draftsman, a duplicate of his or her certificate of registration —

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

<p>9. Section 28 of the Act is amended by inserting immediately after the word “architect” wherever it appears in that section the words, “architectural technologist or architectural draftsman”.</p>	<p>Amendment of section 28 of the Act</p>
<p>10. Section 29 of the Act is amended by inserting immediately after the word “architect” wherever it appears in that section the words, “architectural technologist or architectural draftsman”.</p>	<p>Amendment of section 29 of the Act</p>
<p>11. Section 30 of the Act is amended by inserting immediately after the word “architect” wherever it appears in that section the words, “architectural technologist or architectural draftsman”.</p>	<p>Amendment of section 30 of the Act</p>
<p>12. Section 31 of the Act is amended in paragraph (c) by inserting immediately after the word “architect” which appears in that paragraph the words, “architectural technologist or architectural draftsman”.</p>	<p>Amendment of section 31 of the Act</p>
<p>13. Section 32 of the Act is amended in subsection (1) by inserting immediately after the word “architect” the words, “architectural technologist or architectural draftsman”.</p>	<p>Amendment of section 32 of the Act</p>
<p>14. Section 33 of the Act is amended by inserting immediately after the word “architect” wherever it appears in that section the words, “architectural technologist or architectural draftsman”.</p>	<p>Amendment of section 33 of the Act</p>
<p>15. Section 35 of the Act is amended by inserting immediately after the word “architect” wherever it appears in that section the words, “architectural technologist or architectural draftsman”.</p>	<p>Amendment of section 35 of the Act</p>
<p>16. Section 37 of the Act is amended by inserting immediately after the word “architect” wherever it appears in that section the words, “architectural technologist or architectural draftsman”.</p>	<p>Amendment of section 37 of the Act</p>
<p>17. Section 38 of the Act is amended by inserting immediately after the word “architect” wherever it appears in that section the words, “architectural technologist or architectural draftsman”.</p>	<p>Amendment of section 38 of the Act</p>
<p>18. Section 39 of the Act is amended by inserting immediately after the word “architect” wherever it appears in that section the words, “architectural technologist or architectural draftsman”.</p>	<p>Amendment of section 39 of the Act</p>
<p>19. Section 40 of the Act is amended by inserting immediately after the word “architect” wherever it appears in that section the words, “architectural technologist or architectural draftsman”.</p>	<p>Amendment of section 40 of the Act</p>
<p>20. Section 41 of the Act is amended by inserting immediately after the word “architect” wherever it appears in that section the words, “architectural technologist or architectural draftsman”.</p>	<p>Amendment of section 41 of the Act</p>

Amendment
of section 42
of the Act

21. The Act is amended by substituting for section 42, the following new section —

- “Revenues of
the Council** 42. (1) The revenues of the Council shall consist of —
- (a) application fees and other fees as shall be charged by the Council;
 - (b) grants and donations that the Council may receive;
 - (c) income that Council may receive from rentals or sale of land, buildings or published materials; and
 - (d) annual fees.

(2) The Council shall use the funds acquired under subsection (1) to meet the costs incurred for its operations and shall use any surplus accrued for such purposes as it may determine.

(3) The Council shall manage its own budget through a subvention or grant from Government until such time that the Council is able to source its own funding.”.

Amendment
of section 48
of the Act

22. The Act is amended by substituting for section 48 the following section —

- “Effect of
registration** 48. (1) Every person whose name has been entered in the register as —
- (a) an architect shall, as long as his or her name remains on the register, be entitled to adopt and use the word and title “Architect” or “Registered Architect” or such other style or title as may be approved by the Council;
 - (b) an architectural technologist shall, as long as his or her name remains in the register, be entitled to adopt and use the word and title “Technologist” or “Registered Technologist” or such other style or title as may be approved by the Council; or
 - (c) an architectural draftsman shall, as long as his or her name remains in the register, be entitled to adopt and use the word and title “Draftsman” or “Registered Draftsman” or such other style or title as may be approved by the Council,

and to offer his or her services to the public for gain or reward based on fee scales provided in the conditions of engagement and such accepted fees as may be prescribed by the Council.

(2) Notwithstanding the provisions of subsection (1), architectural work shall be reserved as follows —

- (a) all architectural work exceeding two hundred and fifty square metres (250m²) in total gross floor area, or all architectural work declared by the Minister under subsection (3) to be of a specialised nature shall be reserved for architects;

- (b) the work of an architect not exceeding two hundred and fifty square metres (250m²) in total gross floor area may be undertaken by an architectural technologist, provided that such work does not fall within architectural work classified as specialised under subsection (3); and
 - (c) the work of an architect not exceeding one hundred and fifty square metres (150m²) in total gross floor area may be undertaken by an architectural draftsman, provided that such work does not fall within architectural work classified as specialised under subsection (3).
- (3) The Minister may, by notice published in the *Gazette* declare certain work of an architect as architectural work of a specialised nature.”.

23. The Act is amended by inserting immediately after section 48, the following new section —

Insertion of section 48A

“Submission of drawings 48A. (1) Every drawing shall, notwithstanding that it is produced by an architectural technologist or an architectural draftsman submitted for planning or building permission and for approval to a local authority, be signed by an architect who shall provide proof, thereto, of the validity of his or her registration by the Council.

(2) The name and signature of an architect, appearing on a drawing, shall be sufficient to certify that the design and technical documentation is of a satisfactory standard as to guarantee fitness-for-purpose, acceptable Indoor Environmental Quality and safety of the occupants of the erected structure.

(3) For purposes of subsection (2), “acceptable Indoor Environmental Quality” means the indoor environment that provides for indoor air quality, ventilation, daylighting and thermal comfort so as not to compromise the health of occupants or expose them to hazardous substances.”.

24. The Act is amended by substituting for section 49, the following new section —

Amendment of section 49 of the Act

“Offences and penalties 49. (1) Any person who is not an architect, architectural technologist or architectural draftsman who —

- (a) performs the work of an architect, architectural technologist or architectural draftsman for gain;
- (b) practises or carries on business under any name or style which contains the word —
 - (i) “Architect” or “architectural”,
 - (ii) “Architectural Technologist” or “Registered Architectural Technologist”, or
 - (iii) “Architectural Draftsman” or “Registered Architectural Draftsman”;

- (c) uses by way of advertisement, description, document, drawing or other means, any name, title, addition, description, letters, motto, emblem, symbol, badge, seal or other insignia which indicates or is intended to lead persons to assume that he or she is an architect, architectural technologist or architectural draftsman; or
- (d) pretends or by any means whatsoever, holds himself or herself out to be an architect, architectural technologist or architectural draftsman, shall be guilty of an offence:

Provided that the provisions of this subsection shall not preclude the use of the designation "Naval Architect", "Landscape Architect", or any similar designation as may be prescribed by the Council,

(2) Any person who, or entity which knowingly employs or engages, in the capacity of an architect, architectural technologist or architectural draftsman any person who was registered and —

- (a) whose name has been removed from the register and has not been restored; or
- (b) who has been suspended from practising in terms of this Act, during the period of suspension, shall be guilty of an offence.

(3) A person convicted of an offence under subsection (1) or (2) shall be liable on a first conviction to a fine not exceeding P5 000 or to imprisonment for a term not exceeding 10 months, or to both and, on a second or subsequent conviction, to a fine not exceeding P10 000 or to imprisonment for a term not exceeding two years, or to both.

(4) For the purposes of subsection (1), a person shall be deemed to be performing the work of an architect for gain if he or she or a partnership of which he or she is a member or an employee including a director in relation to a company —

- (a) performs the work of an architect for or in expectation of a fee, gain or reward, direct or indirect to himself or herself or to any other person; or
- (b) holds himself or herself out as an architect, architectural technologist or architectural draftsman and is prepared to receive a fee, gain or reward, direct or indirect to himself or herself or to any other person, to perform the work of an architect.

(5) The Council may impose administrative penalties of an amount not exceeding that specified in subsection (3) where a person contravenes any of the provisions of any rules or regulations made under this Act."

25. The Act is amended by substituting for section 51, the following new section —

“Regulations 51. (1) The Minister may, after consultation with the Council, make regulations generally for the better carrying out of the objects and purposes of this Act, and without prejudice to the generality of the foregoing, any such regulations may provide for —

- (a) fees and fines to be paid under the Act;
- (b) the procedure to be followed at an inquiry under this Act;
- (c) the establishment and administration of a fidelity fund;
- (d) the exemption of any person from any provision of the Act, provided they comply with such conditions as may be prescribed; and
- (e) the forms to be used under the Act.

(2) The Council may, in consultation with the Minister, make rules prescribing —

- (a) the conduct of the business of the Council;
- (b) the determination and regulation of the professional conduct and ethics of the architectural profession;
- (a) the issuing of certificates;
- (b) the establishment of a tariff of fees for the provision of services of the architectural profession; and
- (c) the holding of an examination of any person wishing to apply under section 23.”

PASSED by the National Assembly this 3rd day of April, 2014.

BARBARA N. DITHAPO,
Clerk of the National Assembly.