

Namibia

Engineering Profession Act, 1986

Act 18 of 1986

Legislation as at 15 December 2015

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Engineering Profession Act, 1986

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Republic of Namibia
Annotated Statutes

Engineering Profession Act, 1986 Act 18 of 1986

Published in Official Gazette 5244 on 11 August 1986

Assented to on 29 July 1986

Commenced on 1 February 1987 by Commencement of the Engineering Profession Act, 1986

**[This is the version of this document from 15 December 2015
and includes any amendments published up to 5 July 2024.]**

[Amended by Engineering Profession Amendment Act, 1991 (Act 25 of 1991) on 21 December 1991]

**[Amended by Amendment of Schedule II of the Engineering Profession
Act, 1986 (Government Notice 22 of 2004) on 16 February 2004]**

**[Amended by Amendment of Engineering Professions: Engineering
Professions Act, 1986 (General Notice 563 of 2015) on 15 December 2015]**

ACT

To provide for the establishment of a council for the engineering profession in Namibia; for the registration of professional engineers and engineers in training, incorporated engineers and incorporated engineers in training, engineering technicians and engineering technicians in training; and to provide for incidental matters.

[long title substituted by Act 25 of 1991]

(Afrikaans text signed by the Administrator-General on 29 July 1986)

BE IT ENACTED by the National Assembly, as follows:-

[Act 25 of 1991 directs the substitution throughout the Act of -

- (a) “President” for “Administrator-General”;**
- (b) “Minister” for “Cabinet”;**
- (c) “Gazette” for “Official Gazette”;**
- (d) “incorporated engineer” for “technician engineer”; and**
- (e) “Namibia” for “the territory”.**

The direction to substitute “incorporated engineer” for “technician engineer” has been understood to include corresponding substitutions where the term appears in the plural. The term in question should now be preceded by “an” rather than “a” in some of the affected provisions to be grammatically correct, as indicated in annotations to the individual provisions in question.]

1. Definitions

In this Act, unless the context otherwise indicates -

“**Academy**” means the Academy established by the Academy Act, 1985 (Act 9 of 1985);

[The Academy Act 9 of 1985 was repealed by the University of Namibia Act 18 of 1992.]

“**council**” means the Engineering Council of Namibia referred to in section 2;

[definition of “council” amended by Act 25 of 1991]

“**engineer in training**” means a person registered as an engineer in training under section 11 (3)(a);

“**engineers’ institute**” means any association of persons registered or qualified to be registered in terms of this Act which has been recognized by the Council under section 7(1)(i);

“**engineering technician**” means an engineering technician registered under section 13(2);

“**improper conduct**” means conduct contemplated in section 18;

“**incorporated engineer**” means an incorporated engineer registered under section 12(2);

[definition of “incorporated engineer” inserted by Act 25 of 1991]

“**Minister**” means the Minister of Works, Transport and Communication;

[definition of “Minister” inserted by Act 25 of 1991]

“**prescribed**” means prescribed by or under this Act;

“**private practice**” means the performance of work by any person for another person otherwise than under a contract of master and servant;

“**professional engineer**” means a person registered as a professional engineer under section 11(2);

“**register**” means the register referred to in section 7(2);

“**registered as an engineering technician**” means registered as an engineering technician under section 13(2);

“**registered as a professional engineer**” means registered as a professional engineer under section 11(2);

“**registered as an incorporated engineer**” means registered as an incorporated engineer under section 12(2);

[definition of “registered as a technician engineer” amended by Act 25 of 1991, becoming as a result a definition of “registered as an incorporated engineer”]

“**registered as an engineer in training**” means registered as an engineer in training under section 11 (3) (a);

“**registered as an incorporated engineer in training**” means registered as an incorporated engineer in training under section 12(3)(a);

[definition of “registered as a technician engineer in training” amended by Act 25 of 1991, becoming as a result a definition of “registered as an incorporated engineer in training”]

“**registered as an engineering technician in training**” means registered as an engineering technician in training under section 13(3)(a);

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

“**regulation**” means a regulation made and in force under this Act;

“rule” means a rule made under this Act;

[definition of “technician engineer” deleted by Act 25 of 1991
definition of “territory” deleted by Act 25 of 1991]

“this Act” includes any regulation, notice or rule made or issued under this Act.

2. The Engineering Council of Namibia

The juristic person known as the South West African Engineering Council which in terms of this Act existed immediately before the commencement of the Engineering Profession Amendment Act, 1991, shall, as from the said commencement continue to exist as a juristic person under the name Engineering Council of Namibia.

[Section 2 substituted by Act 25 of 1991. Section 2(2) of Act 25 of 1991 also provides: “Any reference in any law, register, title deed or any other document to the South West African Engineering Council shall be deemed to be a reference to the Engineering Council of Namibia.”]

3. Constitution of council and first meeting

- (1) The council shall consist of the following members to be appointed by the Minister, namely
 - (a) seven persons, of whom -
 - (i) two shall be nominated by the Association of Consulting Engineers of Namibia;
 - (ii) three shall be nominated by the Engineering Professions Association of Namibia;
 - (iii) two shall be nominated by the Namibian Institute of Technology;
 - [paragraph (a) amended by Act 25 of 1991]
 - (b) one person selected by the Minister from among engineers in the full-time government service in Namibia;
 - (c) one person selected by the Minister on the grounds that by virtue of his knowledge and experience of public affairs and the economic requirements of Namibia, he is particularly suited to judge how the public interest in so far as it is affected by engineering can best be safeguarded or promoted; and
 - (d) one representative from the Academy who shall be a professor or lecturer in engineering at the Academy and shall be nominated by the Council of the Academy.
- (2) Whenever any nomination under subsection (1)(a) or (d) becomes necessary, the Minister shall call upon the body concerned, or cause it to be called upon, by notice in writing, to nominate within a period specified in the notice, being not less than sixty days from the date thereof, so many persons as may be required to be nominated by it for appointment to the council.
- (3) If after having been called upon by notice under subsection (2), the body concerned fails to nominate, within the period specified in that notice, so many persons as were in terms of such notice required to be nominated, the Minister may appoint the persons, if any, actually so nominated and such other persons who hold the qualifications necessary for appointment as he may deem fit, up to the number required, to be members of the council.
- (4) For every member of the council appointed in terms of subsection (1), there may be an alternate member appointed in the same manner as such member, and any alternate member so appointed may attend and, whenever the member to whom he has been appointed as alternate member is absent from such meeting, take part in the proceedings at any meeting of the council.
- (5) The name of every person appointed as a member of the council and of every person appointed as an alternate member, together with the date from which the appointment takes effect and the duration of such appointment, shall be notified in the Gazette.

- (6) No decision taken by the council or act performed under authority of the council, shall be invalid by reason only of a vacancy on the council or of the fact that a person who was not entitled to sit as a member of the council sat as a member at the time when the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the requisite majority of the members of the council who were present at the time and entitled to sit as members.
- (7) The first meeting of the council shall be held at a time and place to be fixed by the Minister.

4. Qualifications of members of council and circumstances under which they vacate office

- (1) No person shall be appointed -
 - (a) as a member of the council under section 3(1)(a)(i) and (ii) or (b), or as an alternate to any such member under section 3(4), unless he is a professional engineer;
 - (b) as a member of the council under section 3(1)(a)(iii), or as an alternate to any such member in terms of section 3(4), unless he is either a incorporated engineer or an engineering technician; or

[The term “incorporated engineer” should be preceded by “an” rather than “a” to be grammatically correct.]

 - (c) as a member of the council under section 3(1)(a), or as an alternate to any such member under section 3(4), unless he is a member of the body by which he was nominated.
- (2) A member and any alternate member of the council shall vacate his office -
 - (a) if he signifies in writing his wish to resign and his resignation is accepted by the Minister;
 - (b) if he becomes insolvent or assigns his estate for the benefit of, or compounds with, his creditors;
 - (c) if he is convicted of an offence and sentenced to a term of imprisonment without the option of a fine;
 - (d) if he is according to the law detained as a mentally ill person;
 - (e) if he is removed from an office of trust on account of improper conduct or if he has been guilty of conduct by reason whereof he is in the opinion of the Minister, after consultation with the council, not a fit person to be a member of the council;
 - (f) if he is declared to be disqualified under this Act from carrying on his profession;
 - (g) if he has been absent from three consecutive meetings of the council without its leave;
 - (h) if he was appointed under section 3(1)(a) and ceases to be a member of the body by which he was nominated;
 - (i) if he was appointed under section 3(1)(a) or (b) and, after expiry of a period of at least twelve months and one day after the commencement of this Act, ceases to be a professional engineer or incorporated engineer or engineering technician, as the case may be;
 - (j) if he was appointed under section 3(1)(b) and ceases to be a person in the full -time government service of Namibia; and
 - (k) if he was appointed under section 3(1)(d) and ceases to be a professor or lecturer in engineering at the Academy.
- (3) Subsection (1)(a) and (b) shall come into operation twelve months after the commencement of this Act.

5. Term of office of members of council

- (1) Every member of the council shall be appointed for a period of four years, but shall on termination of the period for which he was appointed, continue to hold office for a further period not exceeding three months until his successor has been appointed: Provided that the Minister may, after consideration of a relevant recommendation by the council, extend or shorten the term of office of any member or of all members of the council and their alternate members for a specified period not exceeding one year.
- (2) Whenever a member of the council vacates his office before the expiration of the period for which he was appointed, the Minister may, subject to the applicable provisions of sections 3 and 4, appoint a person to fill the vacancy for the unexpired portion of the period for which such member was appointed.
- (3) Any person whose period of office as a member of the council has expired, shall be eligible for reappointment.

6. President and vice-president of council

- (1) The members of the council shall, at the first meeting of every newly constituted council, out of their number elect a president and a vice-president of the council and the president and vice-president shall hold office during the term of office of the council.
- (2) If the president or the vice-president of the council vacates his office before the expiration of the period for which he was appointed as a member of the council, another member of the council shall, subject to the provisions of subsection (1), be elected as president or vice-president, as the case may be, of the council.
- (3) If for any reason the president is not able to perform his functions in general, the vice-president shall act in his stead.
- (4) If the president and vice-president are absent from any meeting of the council or not able to preside, the members present shall elect one of their number to preside at that meeting and the person so elected to preside may during that meeting and until the president or vice-president resumes duty, perform all the duties of the president.
- (5) A member of the council who is not a professional engineer or who, in the period between the commencement of this Act and the commencement of section 4(1)(a), does not qualify to be registered as a professional engineer under this Act, shall not be elected as president or vice-president of the council or preside at any meeting thereof.

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

- (1) The council shall have the power -
 - (a) to appoint and remunerate a registrar and other officials and to determine their duties and responsibilities;
 - (b) subject to the provisions of this Act, to determine the procedure at meetings of the council or any committee of the council and the manner in which minutes of the proceedings at such meetings shall be kept;
 - (c) subject to the provisions of section 10(2), to consider and give its final decision on recommendations of a committee of the council;
 - (d) to acquire or hire such movable or immovable property as it may consider necessary for the effective performance of its functions and maintain, let or sell or in any other manner dispose of property so acquired;

- (e) to enter into contracts and to decide the manner in which contracts shall be entered into on behalf of the council;
 - (f) to collect the funds of the council, and subject to the provisions of this Act to invest them by placing such funds or any portion thereof on fixed deposit or in a savings account with any banking institution or building society registered in terms of any law, or the General Post Office, or in stocks, issued by any government or any public utility company lawfully established;
 - (g) subject to the provisions of this Act, to consider and decide upon any application for registration as a professional engineer, an engineer in training, a incorporated engineer, a incorporated engineer in training, an engineering technician or an engineering technician in training;

[The terms “incorporated engineer” and “incorporated engineer in training” should both be preceded by “an” rather than “a” to be grammatically correct.]
 - (h) to decide upon the form of the register and certificates to be kept, maintained or issued under this Act, the reviewing thereof and the manner in which alterations thereto may be effected;
 - (i) to determine the requirements with which an association of persons registered or qualified to be registered under this Act shall comply in order to qualify for recognition as an engineers’ institute for the purposes of this Act and to consider and decide upon applications for such recognition;
 - (j) in general, to take any steps which it may consider expedient for the protection of the public in their dealings with professional engineers, incorporated engineers or engineering technicians, for the maintenance of the integrity and the enhancement of the status of professional engineers, incorporated engineers and engineering technicians and for the improvement of the services rendered by and the standards of professional qualifications of professional engineers, incorporated engineers and engineering technicians;
 - (k) to encourage research into matters relating to the engineering profession and to give advice or render financial or other assistance or both financial and other assistance, to any educational institution, engineers’ institute or examining body in regard to educational facilities for and the training and education of prospective professional engineers, incorporated engineers and engineering technicians;
 - (l) to finance, print, circulate, sell and administer the publication of and generally to take any steps necessary to publish any publication relating to the engineering profession and cognate matters;
 - (m) to advise the Minister on all matters relating to the engineering profession and cognate matters; and
 - (n) to take such action and do such other things as may be required for the proper performance of its functions and duties under this Act.
- (2) Subject to the provisions of this Act, the council shall keep and maintain a register of professional engineers, engineers in training, incorporated engineers, incorporated engineers in training, engineering technicians and engineering technicians in training and such register shall at all reasonable times be open to inspection by any member of the public upon payment of such fee as the council may prescribe by regulation.

- (3) The Minister may, on recommendation of the council, by regulation -
- (a) prescribe the tariff of consulting fees according to which a professional engineer or a incorporated engineer, as the case may be, may calculate the amount chargeable by him in respect of the rendering by him of professional consulting services; and

[The term “incorporated engineer” should be preceded by “an” rather than “a” to be grammatically correct.]

- (b) prescribe the kinds of work in connection with projects, undertakings or services of an engineering nature which shall be reserved for professional engineers.
- (4) Before any regulation is made under subsection (3), a notice setting forth the contemplated determination shall be published by the Minister in the Gazette together with a notice intimating that it is being considered to make such determination under this section within a stated period, but not less than four weeks as from the date of the said publication, and inviting interested persons to submit any objections to or representations concerning the contemplated determination: Provided that if the Minister thereafter determines on any alteration in the determination published as aforesaid, as a result of any objections or representations submitted in respect thereof, it shall not be necessary to publish such alteration before finally making the regulations under this section.
- (5) Regulations made under subsection (3)(b) may provide for the exclusion therefrom of work done under specified circumstances or for specified purposes or by or for specified persons or classes of persons or within or outside specified areas or classes of areas.
- (6) Any determination made under subsection (1)(i) and the name of any engineers' institute recognised thereunder shall be made known by the council by notice in the Gazette.

8. Funds of council and the keeping and auditing of books

- (1) The funds of the council shall consist of the registration fees, annual fees, donations and such other moneys as may in terms of this Act from time to time become payable to the council.
- (2) The council shall cause full and correct account to be kept of all moneys received or expended by it.
- (3) The council shall cause to be prepared in each year a statement of its income and expenditure during its last preceding financial year and a balance sheet showing its financial position at the end of that financial year and shall, after such statement and balance sheet have been audited by an auditor appointed by the council, cause copies thereof to be transmitted to every member of the council, and cause a copy thereof to be open for inspection at its office by any person registered in terms of this Act.

9. Reports to the Minister

- (1) The council shall in each year, within six months after the close of its financial year, submit to the Minister a report in regard to its activities during that financial year, together with a copy of the audited statement of income and expenditure and the balance sheet referred to in section 8(3) in respect of that financial year.
- (2) The president of the council shall from time to time submit to the Minister reports in regard to matters relating to the activities of the council which in the opinion of the council should be brought to the Minister's notice.
- (3) Whenever at least two members of the council are dissatisfied with a decision taken by the council in regard to any matter within its purview under this Act, they may inform the Minister that they are not in agreement with such decision and give their reasons therefor, and the Minister may thereupon require the council to furnish it with its observations in regard to such matter, together with any information which the Minister may deem necessary.

- (4) The council shall on request furnish the Minister with advice on matters in connection with the engineering profession or cognate matters, and shall communicate to the Minister information acquired by it in the course of its duties, on matters regarded by it as being of public import.

10. Committees of council

- (1)
 - (a) The council may establish committees to assist it in the performance of its functions and duties and may appoint such of its members or such of its members and other persons not being members of the council, as it may deem fit, to be members of any such committee.
 - (b) A chairman and vice-chairman shall be designated by the council from amongst the members of such committee: Provided that any chairman so designated shall be a member of the council.
- (2) The council may assign to a committee so established such of its powers as it may deem fit, but shall not be deemed to be divested of any power which it may have assigned to a committee, and may amend or repeal any decision of any such committee: Provided that if the council has assigned to a committee the power to determine whether or not any person shall be registered under this Act, or the power to enquire into any case of alleged improper conduct and to impose a punishment in respect thereof in accordance with the provisions of this Act, the council shall not amend or repeal any decision arrived at or anything done by such committee by virtue of the power so assigned, but may, subject to the rules, mitigate any punishment so imposed by any committee.
- (3) A committee to which the council has assigned the power to enquire into any case of alleged improper conduct and to impose a punishment in respect thereof in accordance with the provisions of this Act may, notwithstanding the expiry of the tenure of office of the members of that council, continue to exercise such powers until the conclusion of such enquiry, and such powers shall for the purposes of the proviso to subsection (2) be deemed to have been assigned to the committee by the newly constituted council.
- (4) Any reference in this Act to the council or to the president of the council, in relation to the exercise of any power which the council has assigned to a committee, shall be construed as including a reference to that committee or to the chairman of that committee, as the case may be.
- (5) The provisions of section 3(6) shall apply mutatis mutandis in respect of a committee of the council.

11. Registration of professional engineers and engineers in training

- (1) Any person who desires to be registered as a professional engineer shall lodge with the council, in the manner prescribed by it, an application in writing for such registration, and such application shall be accompanied by the registration fee prescribed by regulation and such information as may be required by the council.
- (2) If after consideration of any such application the council is satisfied that the applicant -
 - (a) is not less than twenty-one years of age and is ordinarily resident in Namibia; and
 - (b) holds a qualification referred to in Part A of Schedule I or holds a qualification which in the opinion of the council is equivalent thereto or has passed an examination prescribed by the council from time to time; and
 - (c) was at the date of commencement of this Act engaged in the performance of engineering work normally performed by persons practising any of the engineering professions referred to in Part A of Schedule II, which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard, and had been so engaged during a period of not less than three years prior to that date; or
 - (d) has, for such period as may from time to time be determined by the council, performed engineering work normally performed by persons practising any of the engineering

professions referred to in Part A of Schedule II which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard,

the council shall, subject to the provisions of subsection (7), register the applicant as a professional engineer and issue to him a certificate of registration in the form prescribed by regulation.

- (3) (a) If after consideration of any such application the council is satisfied that the applicant is ordinarily resident in Namibia and complies with the requirement mentioned in subsection (2) (b) but not with the requirements mentioned in subsection (2)(c) or (d), the council shall, if the applicant requests, register the applicant as an engineer in training and issue to him a certificate of registration to that effect in the form prescribed by regulation.
- (b) Whenever any person who is registered as an engineer in training under paragraph (a) has complied with the requirements mentioned in subsection (2)(d), and the council is satisfied that he is not less than twenty-one years of age, and is ordinarily resident in Namibia, the council shall, subject to the provisions of subsection (7), on application in the form prescribed by regulation cancel the registration of such person and register him under subsection (2).
- (4) Any person who -
- (a) (i) is not less than forty-five years of age and is ordinarily resident in Namibia; and
- (ii) has had not less than twenty years experience in engineering work normally performed by persons practising any of the engineering professions referred to in Part A of Schedule II, which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard; and
- (iii) has passed such examinations (if any) as the council may determine; or
- (b) is not less than twenty-five years of age, is ordinarily resident in Namibia and, at the date of commencement of this Act, was engaged in the performance of engineering work normally performed by persons practising any of the engineering professions referred to in Part A of Schedule II, which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard and had been so engaged during a period of not less than three years prior to that date,
- shall be deemed to have complied with the requirements for registration mentioned in subsection (2)(b).
- (5) No person shall be registered by virtue of the provisions of subsection (4)(b), unless he applied to the council to be so registered within six months after the date of commencement of this Act, or within such further period as the council may in any particular case allow.
- (6) (a) Any person not ordinarily resident in Namibia and who has been engaged to perform work of a nature prescribed under section 7(3)(b) or who wishes to practise any of the engineering professions referred to in Part A of Schedule II within Namibia, may apply to the council for temporary registration as a professional engineer.
- (b) The application shall be in the form prescribed by regulation and shall be accompanied by the registration fee prescribed by regulation and such information as may be required by the council.
- (c) If after consideration of any such application the council is satisfied that the applicant -
- (i) is not less than twenty-five years of age; and
- (ii) holds a qualification referred to in Part A of Schedule I or holds a qualification which in the opinion of the council is equivalent thereto or has passed an examination prescribed by the council from time to time; and
- (iii) has, for such period as may from time to time be determined by the council, performed engineering work normally performed by persons practising any of the

engineering professions referred to in Part A of Schedule II, which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard,

the council may, subject to the provisions of subsection (7), register the applicant as a professional engineer and issue to him a certificate of temporary registration in the form prescribed by regulation.

- (d) A certificate of temporary registration shall be valid for such period, not exceeding twelve months, as the council may in each case determine, but the person concerned may at any time again apply under this section for temporary registration.
- (7) The council may refuse to register any person as a professional engineer or as an engineer in training under this section -
 - (a) if he has at any time been removed from an office of trust on account of improper conduct; or
 - (b) if he has at any time been convicted of extortion, bribery, theft, fraud, forgery or uttering a forged document or perjury and sentenced in respect thereof to imprisonment without the option of a fine or to a fine exceeding R200,00; or
 - (c) if he is according to the law detained as a mentally ill person; or
 - (d) if he is disqualified from registration in terms of a penalty imposed under this Act; or
 - (e) if he is an unrehabilitated insolvent or has entered into an arrangement with his creditors; or
 - (f) if he has been guilty of conduct by reason of which he is in the opinion of the council not a fit person to be registered.
- (8) The council may cancel the registration of any person as a professional engineer or as an engineer in training who subsequent to his registration becomes subject to any of the disqualifications mentioned in subsection (7)(a), (b), (c) or (d) or whose estate is sequestrated or who enters into an arrangement with his creditors or who was within a period of three years prior to his registration, or after his registration, guilty of conduct by reason whereof he is in the opinion of the council not a fit person to be registered or whose registration was made in error or on information subsequently proved to be false.
- (9) The registration of any person as a professional engineer or as an engineer in training, as the case may be, shall lapse if such person -
 - (a) not being a person registered in terms of subsection (6), ceases to be ordinarily resident in Namibia; or
 - (b) fails to pay any annual fee or portion thereof prescribed by regulation and payable by him within six months after such fee or portion thereof becomes due or within such further period as the council may in any particular case allow: Provided that this subsection shall not be so construed that the lapsing of a person's registration shall relieve him from his liability for any annual fee due and payable by him.
- (10) The council shall at the written request of any professional engineer or engineer in training remove his name from the register, but the removal shall not effect any liability incurred by such professional engineer or engineer in training prior to the date of such request.

[The word "effect" should be "affect" to be grammatically correct.]
- (11) Subject to the provisions of subsection (7), the council shall on application to it register any person who was previously registered as a professional engineer under subsection (2) or as an engineer in training under subsection (3), as a professional engineer or as an engineer in training, as the case may be, if he has paid the registration fee prescribed by regulation and any arrear annual fee or portion thereof prescribed under this Act and possesses the prescribed residential qualifications.
- (12) A person who is registered as a professional engineer or as an engineer in training, may describe himself as a professional engineer or as an engineer in training, as the case may be, and a person

who is registered as a professional engineer shall, if he has paid the annual fee or portion thereof prescribed by regulation, be entitled -

- (a) to describe himself as a professional engineer and to carry on his profession in any part of Namibia; and
 - (b) to indicate his profession or make it known by using for all purposes the title "Pr. Eng." after his name.
- (13) Any person who immediately prior to the commencement of this Act was registered as a professional engineer in terms of the Professional Engineers' Act, 1968 (Act 81 of 1968), shall be deemed to comply with the requirements for registration mentioned in subsection (2), and the council shall, upon application to it, but subject to the provisions of subsection (7), and provided that the applicant is ordinarily resident in Namibia, register the applicant as a professional engineer and issue to him or her a certificate of registration to that effect.

[subsection (13) amended by Act 25 of 1991]

- (14) No person shall be registered by virtue of the provisions of subsection (13), unless he applied to the council to be so registered within six months after the date of commencement of this Act, or within such further period as the council may in any particular case allow.

12. Registration of incorporated engineers and incorporated engineers in training

- (1) Any person who desires to be registered as a incorporated engineer shall lodge with the council, in the manner prescribed by it, an application in writing for such registration, and such application shall be accompanied by the registration fee prescribed by regulation and such information as may be required by the council.
- (2) If after consideration of any such application the council is satisfied that the applicant -
 - (a) is not less than twenty-one years of age and is ordinarily resident in Namibia; and
 - (b) holds a qualification referred to in Part B of Schedule I or holds a qualification which in the opinion of the council is the equivalent thereto or has passed an examination prescribed by the council from time to time; and
 - (c) was at the date of commencement of this Act engaged in the performance of engineering work normally performed by persons practising any of the engineering professions referred to in Part B of Schedule II, which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard, and had been so engaged during a period of not less than three years prior to that date; or
 - (d) has, for such period as may from time to time be determined by the council, performed engineering work normally performed by persons practising any of the engineering professions referred to in Part B of Schedule II, which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard,

the council shall, subject to the provisions of subsection (7), register the applicant as a incorporated engineer and issue to him a certificate of registration in the form prescribed by regulation.

- (3)
 - (a) If after consideration of any such application the council is satisfied that the applicant is ordinarily resident in Namibia and complies with the requirement mentioned in subsection (2)(b) but not with the requirements mentioned in subsection (3)(c) or (d), the council shall, if the applicant so requests, register the applicant as a incorporated engineer in training and issue to him a certificate of registration to that effect in the form prescribed by regulation.
 - (b) Whenever any person who is registered as a incorporated engineer in training under paragraph (a) has complied with the requirements mentioned in subsection (2)(d), and the council is satisfied that he is not less than twenty-one years of age and is ordinarily resident in Namibia, the council shall, subject to the provisions of subsection (7), on application in

the form prescribed by regulation, cancel the registration of such person and register him in terms of subsection (2).

(4) Any person who -

- (a)
 - (i) is not less than forty-five years of age and is ordinarily resident in Namibia; and
 - (ii) has had not less than twenty years experience in engineering work normally performed by persons practising any of the engineering professions referred to in Part B of Schedule II, which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard; and
 - (iii) has passed such examinations (if any) as the council may determine; or
- (b) is not less than twenty-five years of age and is ordinarily resident in Namibia and at the date of commencement of this Act was engaged in the performance of engineering work normally performed by persons practising any of the engineering professions referred to in Part B of Schedule II, which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard and had been so engaged during a period of not less than three years prior to that date,

shall be deemed to have complied with the requirement for registration mentioned in subsection (2)(b).

- (5) No person shall be registered by virtue of the provisions of subsection (4)(b), unless he applied to the council to be so registered within six months after the date of commencement of this Act, or within such further period as the council may in any particular case allow.
- (6)
 - (a) Any person not ordinarily resident in Namibia and who has been engaged to perform work normally performed by persons practising any of the engineering professions referred to in Part B of Schedule II within Namibia, may apply to the council for temporary registration as a incorporated engineer.
 - (b) The application shall be in the form prescribed by regulation and shall be accompanied by the registration fee prescribed by regulation and such information as may be required by the council.
 - (c) If after consideration of any such application the council is satisfied that the applicant -
 - (i) is not less than twenty-five years of age; and
 - (ii) holds a qualification referred to in Part B of Schedule I or holds a qualification which in the opinion of the council is equivalent thereto or has passed an examination prescribed by the council from time to time; and
 - (iii) has, for such period as may from time to time be determined by the council, performed engineering work normally performed by persons practising any of the engineering professions referred to in Part B of Schedule II, which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard,the council may, subject to the provisions of subsection (7) register the applicant as a incorporated engineer and issue to him a certificate of temporary registration in the form prescribed by regulation.
 - (d) A certificate of temporary registration shall be valid for such period, not exceeding twelve months, as the council may in each case determine, but the person concerned may at any time again apply in terms of this section for temporary registration.
- (7) The provisions of section 11(7) to (11) shall apply mutatis mutandis to incorporated engineers and incorporated engineers in training.
- (8) A person who is registered as a incorporated engineer or as a incorporated engineer in training may describe himself as a incorporated engineer or as a incorporated engineer in training, as the case

may be, and a person who is registered as a incorporated engineer shall, if he has paid the annual fee or portion thereof prescribed under this Act, be entitled -

- (a) to describe himself as a incorporated engineer and to carry on his profession in any part of Namibia; and
- (b) to indicate his or her profession or make it known by using for all purposes the title “Inc. Eng.” after his or her name.

[paragraph (b) amended by Act 25 of 1991]

[Throughout section 12, the phrases “incorporated engineer” and “incorporated engineer in training”, which result from the global substitutions made by Act 25 of 1991, should be preceded by “an” rather than “a” to be grammatically correct.]

13. Registration of engineering technicians and engineering technicians in training

- (1) Any person who desires to be registered as an engineering technician shall lodge with the council, in the manner prescribed by it, an application in writing for such registration, and such application shall be accompanied by the registration fee prescribed by regulation and such information as may be required by the council.
- (2) If after consideration of any such application the council is satisfied that the applicant -
 - (a) is not less than twenty-one years of age and is ordinarily resident in Namibia; and
 - (b) holds a qualification referred to in Part C of Schedule I or holds a qualification which in the opinion of the council is equivalent thereto or has passed an examination prescribed by the council from time to time; and
 - (c) was at the date of commencement of this Act engaged in the performance of engineering technician work which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard, and had been so engaged during a period of not less than three years prior to that date; or
 - (d) has, for such period as may from time to time be determined by the council, performed engineering technician work which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard,

the council shall, subject to the provisions of subsection (7), register the applicant as an engineering technician and issue to him a certificate of registration in the form prescribed by regulation.

- (3)
 - (a) If after consideration of any such application the council is satisfied that the applicant is ordinarily resident in Namibia and complies with the requirement mentioned in subsection (2)(b) but not with the requirements mentioned in subsection (2)(c) or (d), the council shall, if the applicant so requests, register the applicant as an engineering technician in training and issue to him a certificate of registration to that effect in the form prescribed by regulation.
 - (b) Whenever any person who is registered as an engineering technician in training under paragraph (a) has complied with the requirements mentioned in subsection (2)(d), and the council is satisfied that he is not less than twenty-one years of age and is ordinarily resident in Namibia, the council shall, subject to the provisions of subsection (7), on application in the form prescribed by regulation, cancel the registration of such person and register him under subsection (2).
- (4) Any person who -
 - (a)
 - (i) is not less than forty years of age and is ordinarily resident in Namibia; and

- (ii) has had not less than twenty years experience in engineering technician work which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard; and
 - (iii) has passed such examinations (if any) as the council may determine; or
 - (b) is not less than twenty-one years of age and is ordinarily resident in Namibia and, at the date of commencement of this Act, was engaged in the performance of engineering technician work which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard and had been so engaged during a period of not less than three years prior to that date,
- shall be deemed to have complied with the requirement for registration mentioned in subsection (2)(b).
- (5) No person shall be registered by virtue of the provisions of subsection (4)(b), unless he applied to the council to be so registered within six months after the date of commencement of this Act, or within such further period as the council may in any particular case allow.
 - (6)
 - (a) Any person not ordinarily resident in Namibia and who has been engaged to perform engineering technician work within Namibia, may apply to the council for temporary registration as an engineering technician.
 - (b) The application shall be in the form prescribed by regulation and shall be accompanied by the registration fee prescribed by regulation and such information as may be required by the council.
 - (c) If after consideration of any such application the council is satisfied that the applicant -
 - (i) is not less than twenty-five years of age; and
 - (ii) holds a qualification referred to in Part C of Schedule I or holds a qualification which in the opinion of the council is equivalent thereto or has passed an examination prescribed by the council from time to time; and
 - (iii) has, for such period as may from time to time be determined by the council, performed engineering technician work which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard,the council may, subject to provisions of subsection (7), register the applicant as an engineering technician and issue to him a certificate of temporary registration in the form prescribed by regulation.
 - (d) A certificate of temporary registration shall be valid for such period, not exceeding twelve months, as the council may in each case determine, but the person concerned may at any time again apply in terms of this section for temporary registration.
 - (7) The provisions of section 11(7) to (11) shall apply mutatis mutandis to engineering technicians and engineering technicians in training.
 - (8) A person who is registered as an engineering technician or as an engineering technician in training, may describe himself as an engineering technician or as an engineering technician in training, as the case may be, and a person who is registered as an engineering technician shall, if he has paid the annual fee or portion thereof prescribed under this Act, be entitled -
 - (a) to describe himself as an engineering technician and to carry on his profession in any part of Namibia; and
 - (b) to indicate his profession or make it known by using for all the purposes the title "Eng. Tech" after his name.

14. Amendment of Schedule I

The council may, with the approval of the Minister and by notice in the Gazette, amend, add to or delete any of the qualifications referred to in Schedule I.

15. Circumstances under which certificates of registration shall be returned to registrar

- (1) Any person whose registration has been cancelled in terms of section 11(8), 12(7) or 13(7) or has lapsed in terms of section 11(9), 12(7) or 13(7) or whose name has been removed from the register in terms of section 11(10), 12(7) or 13(7) shall return to the registrar his certificate of registration within thirty days from the date upon which he is directed by the registrar by notice in writing transmitted by post, to do so.
- (2) Any person who fails to comply with any direction given under subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R100,00.

16. Prohibition on use of title of professional engineer and other engineering titles by unregistered person

- (1) Subject to any exemption granted under this Act, any person who is not registered as a professional engineer and who -
 - (a) performs any kind of work reserved for professional engineers under section 7(3)(b); or
 - (b) pretends to be or by any means whatsoever holds himself out or allows himself to be held out as a professional engineer (whether or not purporting to be registered) or uses the name of professional engineer or any name, title, description or symbol or performs any act indicating or calculated to lead persons to infer that he is registered as a professional engineer in terms of this Act; or
 - (c) pretends to be or by any means whatsoever holds himself out or allows himself to be held out as a practitioner of any of the engineering professions referred to in Part A of Schedule II or uses any name, title, description or symbol or performs any act indicating or calculated to lead persons to infer that he is practising any of the engineering professions referred to in Part A of Schedule II,shall be guilty of an offence and liable on conviction to a fine not exceeding R10 000,00.
- (2) The provisions of subsection (1)(c) shall not apply in respect of any person visiting Namibia who is not a resident of Namibia if any such visit does not exceed six months from the date on which he entered Namibia.
- (3) Subject to any exemption granted under this Act -
 - (a) any person who employs any person who is not registered as a professional engineer to practise any of the engineering professions referred to in Part A of Schedule II or to perform any act indicating or calculated to lead persons to infer that he is a professional engineer or that he is practising any of the engineering professions referred to in Part A of Schedule II; or
 - (b) any company or other juristic person which performs or causes to be performed for any other person, whether a natural or a juristic person, by any person, whether registered as a professional engineer or not, any kind of work reserved for professional engineers in terms of section 7(3)(b); or
 - (c) any company or other juristic person which pretends to be or by any means whatsoever holds itself out or allows itself to be held out as a company or other juristic person practising or causing any person in its employ to practise any of the engineering professions referred to in Part A of schedule II or uses any name, title, description or symbol indicating or which is calculated to lead persons to infer that it is a company or other juristic person practising or

causing any person in its employ to practise any of the engineering professions referred to in Part A of Schedule II; or

[No proclamation bringing paragraph (c) into force has been located.]

- (d) any company or other juristic person which pretends to be or by any means whatsoever holds itself out or allows itself to be held out as a company or other juristic person performing any kind of work reserved for professional engineers under section 7(3)(b) or uses any name, title, description or symbol indicating or calculated to lead persons to infer that it is a company or other juristic person performing any kind of work so reserved for professional engineers,

[No proclamation bringing paragraph (d) into force has been located.]

shall be guilty of an offence and liable on conviction to a fine not exceeding R 10 000,00.

- (4) The provisions of this section shall not be construed as prohibiting -
 - (a) the Minister from appointing or authorizing or approving the appointment of any person not registered in terms of this Act as a professional engineer to practise any of the engineering professions referred to in Part A of Schedule II or to perform any kind of work reserved for professional engineers under section 7(3)(b) where, in the opinion of the Minister a person so registered is not readily available or where by reason of the nature or extent of the work involved, or any other circumstance the appointment of a person so registered is not warranted; or

[paragraph (a) amended by Act 25 of 1991]

- (b) any person who has been so appointed or whose appointment has been so authorised or approved from doing any work in respect of or for which he has been so appointed or in respect of or for which his appointment has been so authorized or approved.
- (5) The provisions of subsections (1) and (2) shall not be construed as prohibiting any of the following persons from performing, in the course of practising his profession, any act for which his training and experience have specifically rendered him competent:
 - (i) architects and quantity surveyors registered under the Architects' and Quantity Surveyors' Act, 1979 (Act 13 of 1979);
 - (ii) land surveyors registered under the Land Surveyors' Registration Act, 1950 (Act 14 of 1950); and

[The Land Surveyors' Registration Act 14 of 1950 has been replaced by the Professional Land Surveyors', Technical Surveyors' and Survey Technicians' Act 32 of 1993.]

- (iii) persons registered as incorporated engineers.

[The paragraphs in subsection (5) are labelled in the Official Gazette with Roman numerals rather than letters, unlike most of the other paragraphs in the Act.]

- (6) Nothing in this section contained shall be construed as prohibiting any person from whom a certificate of competency is required under the -

- (i) Factories, Machinery and Building Work Ordinance, 1952 (Ordinance 34 of 1952); or

[The Factories, Machinery and Building Work Amendment Ordinance 29 of 1960 was repealed by the Labour Act 6 of 1992, which has been replaced by the Labour Act 11 of 2007.]

- (ii) Mines, Works and Minerals Ordinance, 1968 (Ordinance 20 of 1968); or

[The Mines, Works and Minerals Ordinance 20 of 1968 was repealed by the Minerals (Prospecting and Mining) Act 33 of 1992.]

(iii) Merchant Shipping Act, 1951 (Act 57 of 1951);

from using the titles “certificated mechanical engineer”, “certificated electrical engineer” or “certificated marine engineer”, as the case may be, or from performing any act which he under the applicable Ordinance or Act aforesaid is empowered or required to perform.

[The paragraphs in subsection (6) are labelled in the Official Gazette with Roman numerals rather than letters, unlike most of the other paragraphs in the Act.]

- (7) The council may, with the approval of the Minister and by notice in the Gazette, amend, add to or delete the engineering professions referred to in Part A of Schedule II.
- (8) Subsection (1)(a), (b) and (c) and subsection (3) shall come into operation on a date determined by the President, after consultation with the council, by proclamation in the Gazette: Provided that different dates of commencement may be thus determined in respect of different subsections or paragraphs.

17. Prohibition on use of title of incorporated engineer and engineering technician and related titles

- (1) Subject to any exemption granted under this Act, any person who is not registered as a incorporated engineer and who -
 - (a) pretends to be or by any means whatsoever holds himself out or allows himself to be held out as a incorporated engineer (whether or not purporting to be registered) or uses the name of incorporated engineer or any name, title, description or symbol or performs any act indicating or calculated to lead persons to infer that he is registered as a incorporated engineer in terms of this Act; or
 - (b) pretends to be or by any means whatsoever holds himself out or allows himself to be held out as a practitioner of any of the engineering professions referred to in Part B of Schedule II or uses any name, title, description or symbol or performs any act indicating or calculated to lead persons to infer that he is practising any of the engineering professions referred to in Part B of Schedule II,

shall be guilty of an offence and liable on conviction to a fine not exceeding R10 000,00.

[Throughout subsection (1), the phrase “incorporated engineer”, which results from the global substitution made by Act 25 of 1991, should be preceded by “an” rather than “a” to be grammatically correct.]

- (2) Subject to any exemption granted under this Act any person who is not registered as an engineering technician and who pretends to be or by any means whatsoever holds himself out or allows himself to be held out as an engineering technician (whether or not purporting to be registered) or uses the name of engineering technician or any name, title, description or symbol or performs any act indicating or calculated to lead persons to infer that he is registered as an engineering technician in terms of this Act, shall be guilty of an offence and liable on conviction to a fine not exceeding R2 500,00.
- (3) The provisions of subsections (1) and (2) shall not apply in respect of any person visiting Namibia who is not resident in Namibia if any such visit does not exceed six months from the date on which he entered Namibia.
- (4) The council may, with the approval of the Minister and by notice in the Gazette, amend, add to or delete the engineering professions referred to in Part B of Schedule II.
- (5) The provisions of section 16(4) shall apply mutatis mutandis in respect of incorporated engineers and engineering technicians.

- (6) Subsections (1) and (2) shall come into operation on a date determined by the President, after consultation with the council, by proclamation in the Gazette: Provided that different dates of commencement may be thus determined in respect of different subsections.

18. Improper conduct

- (1) A professional engineer or an engineer in training shall be guilty of improper conduct if he -
- (a) except with the consent of the council or except in terms of any exemption granted under this Act, knowingly entrusts to any person other than a professional engineer, any work specially pertaining to one or other of the engineering professions referred to in Part A of Schedule II or any work reserved for professional engineers under section 7(3)(b); or
 - (b) performs any work specially pertaining to one or other of the engineering professions referred to in Part A of Schedule II or any work reserved for professional engineers under section 7(3)(b), in connection with any matter which is the subject of dispute or litigation, on condition that payment for such work shall be made only if such dispute or litigation ends favourably for the party for whom such work is performed; or
 - (c) accepts remuneration from any person other than his client or employer for performing any work specially pertaining to one or other of the engineering professions referred to in Part A of Schedule II or any work reserved for professional engineers under section 7(3)(b); or
 - (d) performs any work specially pertaining to one or other of the engineering professions referred to in Part A of Schedule II or any work reserved for professional engineers under section 7(3)(b), during any period in respect of which he has been suspended under this Act; or
 - (e) commits any offence in carrying on his profession; or
 - (f) contravenes or fails to comply with any regulation made under section 22 or with any rule made under section 23.
- (2) A incorporated engineer or incorporated engineer in training shall be guilty of improper conduct if he -
- (a) except with the consent of the council or except in terms of any exemption granted under this Act, knowingly entrusts to any person other than a incorporated engineer, any work specially pertaining to one or other of the engineering professions referred to in Part B of Schedule II; or
 - (b) performs any work specially pertaining to one or other of the engineering professions referred to in Part B of Schedule II in connection with any matter which is the subject of dispute or litigation, on condition that payment for such work shall be made only if such dispute or litigation ends favourably for the party for whom such work is performed; or
 - (c) accepts remuneration from any person other than his client or employer for performing any work specially pertaining to one or other of the engineering professions referred to in Part B of Schedule II; or
 - (d) performs any work specially pertaining to one or other of the engineering professions referred to in Part B of Schedule II during any period in respect of which he has been suspended under this Act; or
 - (e) commits any offence in carrying on his profession; or
 - (f) contravenes or fails to comply with any regulation made under section 22 or any rule made under section 23.

[Throughout subsection (2), the phrase “incorporated engineer”, which results from the global substitution made by Act 25 of 1991, should be preceded by “an” rather than “a” to be grammatically correct.]

- (3) An engineering technician or an engineering technician in training shall be guilty of improper conduct if he -
- (a) performs any work specially pertaining to the engineering technician profession in connection with any matter which is the subject of dispute or litigation, on condition that payment for such work shall be made only if such dispute or litigation ends favourably for the party for whom such work is performed; or
 - (b) accepts remuneration from any person other than his client or employer for performing any work specially pertaining to the engineering technician profession; or
 - (c) performs any work specially pertaining to the engineering technician profession during any period in respect of which he has been suspended under this Act; or
 - (d) commits any offence in carrying on his profession; or
 - (e) contravenes or fails to comply with any regulation made under section 22 or any rule made under section 23.
- (4) The acquittal or the conviction of a professional engineer, engineer in training, incorporated engineer, incorporated engineer in training, engineering technician or engineering technician in training by a court of law upon a criminal charge shall not be a bar to proceedings against him under this Act on a charge of improper conduct, notwithstanding the fact that the facts set forth in the charge of improper conduct would, if proved, constitute the offence set forth in the criminal charge on which he was so acquitted or convicted or another offence on which he might have been convicted at his trial on the said criminal charge.
- (5) If the improper conduct with which a professional engineer, engineer in training, incorporated engineer, incorporated engineer in training, engineering technician or engineering technician in training is charged amounts to an offence of which he has been convicted by a court of law, a certified copy of the record of his trial and conviction by that court shall, upon the identification of such a professional engineer, engineer in training, incorporated engineer, incorporated engineer in training, engineering technician or engineering technician in training as the person referred to in the record, be sufficient proof of the commission by him of such offence, unless the conviction has been set aside by a superior court: Provided that it shall be competent for the professional engineer, engineer in training, incorporated engineer, incorporated engineer in training, engineering technician or engineering technician in training charged to adduce evidence that he was in fact wrongly convicted.
- (6) Whenever in the course of any proceedings before any court of law or in the course of an investigation in terms of any law it appears to the court or to the person in charge of the investigation, as the case may be, that there is prima facie evidence of improper conduct on the part of a professional engineer, engineer in training, incorporated engineer, incorporated engineer in training, engineering technician or engineering technician in training or conduct which, regard being had to the engineering profession, is disgraceful, the court or the person in charge of the investigation, as the case may be, shall direct that a copy of the record of the proceedings or the investigation or such part thereof as is material to the issue, be transmitted to the council.

19. Disciplinary powers of council

- (1) The council shall have the power to enquire into cases of improper conduct of which a person who is registered as a professional engineer, engineer in training, incorporated engineer, incorporated engineer in training, engineering technician or engineering technician in training is alleged to have been guilty while so registered and to impose in respect thereof any punishment prescribed under section 23(f): Provided that in the case of alleged improper conduct which forms or which the council has reason to believe is likely to form the subject of criminal or civil proceedings in a court of law, the council may postpone the enquiry until such proceedings have been determined: Provided further that nothing in this section contained shall be deemed to affect the right of

any engineers' institute from taking disciplinary or other action against any of its members in accordance with its constitution and rules.

- (2) Whenever any punishment imposed under subsection (1) consists of, or includes any fine, the amount thereof shall be recoverable by the council from the person concerned and be paid into the funds of the council.

20. Enquiry by council

- (1) For the purpose of any enquiry under section 19, the council may -
 - (a) summon any person who in its opinion may be able to give material information concerning the subject of the enquiry or who is believed to have in his possession or custody or under his control any book, document or thing which has any bearing on the subject of the enquiry, to appear before it at a time and place specified in the summons, to be interrogated or to produce that book, document or thing, and retain for examination any book, document or thing so produced;
 - (b) call and by its president administer an oath to, or accept an affirmation from, any person present at the enquiry who was or could have been summoned under paragraph (a) and interrogate him and require him to produce any book, document or thing in his possession or custody or under his control;
 - (c) appoint any person to advise the council at such enquiry on matters pertaining to law, procedure or evidence.
- (2) A summons for the attendance before the council of any person or for the production of any book, document or thing shall be in the form prescribed by the council, shall be signed by the president of the council or a person authorized thereto by it, and shall be served in the same manner as a summons for the attendance of a witness at a civil trial in the magistrate's court.
- (3) If any person who has been duly summoned under this section fails, without sufficient cause, to attend at the time and place specified in the summons, or to remain in attendance until excused from further attendance by the president of the council, or if any person called in terms of subsection (1)(b) refuses to be sworn or to affirm as a witness or fails without sufficient cause to answer fully and satisfactorily to the best of his knowledge and belief all questions lawfully put to him concerning the subject of the enquiry or to produce any book, document or thing in his possession or custody or under his control which he has been required to produce, he shall be guilty of an offence: Provided that in connection with the interrogation of any such person or the production of any such book, document or thing, the law relating to privilege, as applicable to a witness subpoenaed to give evidence or to produce any book, document or thing before a court of law, shall apply.
- (4) Any witness who, having been duly sworn or having made an affirmation, gives a false answer to any question lawfully put to him or makes a false statement on any matter, knowing such answer or statement to be false, shall be guilty of an offence.
- (5) Any person who wilfully hinders the president or any member or officer of the council in the exercise of any power conferred upon him by or under this section, shall be guilty of an offence.
- (6) A person whose conduct is being enquired into by the council shall be informed of the nature of the complaint made against him and shall be entitled to appear by himself or to be represented by some other person duly authorized in writing on his behalf, and to produce evidence, call and examine witnesses on his behalf and cross examine other witnesses.
- (7) Any person convicted of an offence under this section shall be liable to a fine not exceeding R200,00.

21. Suspension from practice of persons who have become mentally ill

- (1) Whenever it appears to the council from information on oath that any person registered in terms of section 11, 12 or 13 of this Act, has become mentally ill to such extent that it would be contrary to the public welfare to allow him to continue in practice, the council may, if it deems fit, hold an enquiry mutatis mutandis in accordance with the provisions of section 20 into such person's mental state.
- (2) If the council finds that such person is in fact mentally ill, it may order the suspension of such person for a specified period from practising his profession.
- (3) The council may extend for any period determined by it the period of operation of, or withdraw, any order made under this section.

22. Regulations

The Minister may, after consultation with the council, make regulations not inconsistent with this Act -

- (a) concerning matters which are in terms of this Act required or permitted to be prescribed by regulation;
- (b) concerning the remuneration and allowances payable from the funds of the council to members of the council or of a committee of the council, and the recovery from funds of the council of allowances paid to a member of the council or of a committee of the council who is in the government service;
- (c) concerning the fees payable to the council in respect of an examination (or part thereof) referred to in section 11(2)(b), 11(4)(a), 11(6)(c), 12(2)(b), 12(4)(a), 12(6)(c), 13(2)(b), 13(4)(a) or 13(6)(c), which is conducted by or on behalf of the council;
- (d) concerning the manner in which an applicant shall apply for registration as a professional engineer, an engineer in training, a incorporated engineer, a incorporated engineer in training, an engineering technician or an engineering technician in training;

[The terms "incorporated engineer" and "incorporated engineer in training" should both be preceded by "an" rather than "a" to be grammatically correct.]
- (e) prescribing the fees payable to the council in respect of such registration and the annual fees payable to the council by a person as long as he remains registered;
- (f) prescribing that portion of such annual fees payable in respect of part of a year and the date on which such annual fee or portion thereof shall become payable;
- (g) concerning the granting of exemption from the payment of such annual fees or portion thereof; and
- (h) generally concerning all matters that it deems necessary or expedient to prescribe by regulation in order to achieve the objectives of this Act.

23. Rules

The council may, with the approval of the Minister, and by notice in the Gazette, make rules not inconsistent with this Act -

- (a) as to any matters which by this Act are required or permitted to be prescribed by rule;
- (b) as to the calling of and procedure and quorum at meetings of the council or of a committee of the council;
- (c) as to the keeping, custody and publication of a register of persons registered in terms of sections 11, 12 and 13;

- (d) as to the requirements with which professional engineers, engineers in training, incorporated engineers, incorporated engineers in training, engineering technicians or engineering technicians in training, as the case may be, shall comply in carrying on their profession;
- (e) indicating what conduct on the part of professional engineers, engineers in training, incorporated engineers, incorporated engineers in training, engineering technicians or engineering technicians in training shall, for the purposes of section 18(6), constitute disgraceful conduct;
- (f) prescribing the method of enquiry into allegations of improper conduct and the punishments, including fines, removal from the register, temporary or permanent disqualification from registration or suspension from practice for such period as the council may determine, which may be imposed in respect thereof, and as to the mitigation of any such punishment so imposed;
- (g) as to the investigations or enquiries that may be made or instituted by the council for the purpose of the evaluation of examinations with a view to the inclusion thereof in Part A, B or C of Schedule I and the procedure to be observed in connection therewith;
- (h) as to, generally, all matters which it considers necessary or expedient to prescribe by way of rules in order that the purposes of this Act may be achieved.

[The word “expedient” is misspelt in the Official Gazette, as reproduced above.]

24. Procedure and evidence

- (1) The register shall be prima facie proof of all matters directed or authorized by this Act to be noted therein.
- (2) A certificate purporting to be signed by the registrar to the effect that an entry has or has not been made in the register or that any other thing authorized by this Act to be done, has or has not been done, shall be prima facie evidence of the matters specified in that certificate.
- (3) A copy of an entry in the register or of a document in the custody of the registrar, or an extract from the register or from any such document, purporting to be certified by the registrar, shall be admitted in evidence in all courts without further proof or production of the original.

25. Rectification of errors

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

26. Restriction of liability

Neither the council, nor any member or official thereof, shall be liable in respect of anything done in good faith in the exercise or performance of a power or duty conferred or imposed by or under this Act.

[section 26 substituted by Act 25 of 1991]

27. Delegation of powers

- (1) The Minister may by writing under the hand of its chairman delegate to a senior officer in the government service all or any of the powers conferred upon it by this Act other than the powers conferred upon it by sections 7(3) and (4), 16, 17, 22, 23 and 28.
- (2) Any person to whom any power has been delegated under subsection (1) shall exercise that power subject to the directions of the Minister.

- (3) The Minister may at any time revoke in writing any such delegation, and the delegation of any power shall not prevent the exercise of that power by the Minister itself.

28. Exemption from operation of provisions of Act

- (1) The Minister may, after consultation with the council, by notice in the Gazette and subject to such conditions as it may determine, exempt any person, or class of such persons specified in the notice, either generally or under such circumstances as may be specified in the notice and either indefinitely or for such period as may be so specified, from the operation of any or all of the provisions of this Act.
- (2) Before any exemption relating to section 16(3) is granted under subsection (1) of this section, a notice setting forth the proposed exemption shall be published by the Minister in the Gazette together with a notice intimating that it is proposed to make such provision under subsection (1) of this section within a stated period, but not less than four weeks as from the date of such publication, and inviting interested persons to submit any objections to or representations concerning the proposed exemption: Provided that if the Minister thereafter decides on any alteration to the exemption published as aforesaid as a result of any objections or representations submitted in respect thereof, it shall not be necessary to publish such alteration before finally making the provision under subsection (1) of this section.
- (3) The Minister may at any time by notice in the Gazette amend or repeal any notice issued under subsection (1).

29. Repeal of Act 81 of 1968

- (1) Subject to the provisions of subsection (2), the Professional Engineers' Act, 1968 (Act 81 of 1968), and the Professional Engineers' Amendment Act, 1972 (Act 52 of 1972), are hereby repealed.
- (2) Any regulation made or any fees prescribed or any kind of work prescribed as reserved for professional engineers under any provision of any law repealed by this Act, which could be made or prescribed in terms of a corresponding provision of this Act, shall be deemed to have been made or prescribed in terms of such corresponding provision, and any reference in any such regulation or in respect of any fees or kind of work so prescribed -
 - (a) to any council as defined in any such law, shall be deemed to be a reference to the council;
 - (b) to any law repealed by this Act, shall be deemed to be a reference to this Act;
 - (c) to the Minister of Public Works or the Minister, shall be deemed to be a reference to the Minister;

[Paragraph (c) is amended by Act 25 of 1991 to substitute "Minister" for "Cabinet". The result of this substitution is somewhat circular; the original provision read as follows: "(c) to the Minister of Public Works or the Minister, shall be deemed to be a reference to the Cabinet".]
 - (d) to any provision of any law repealed by this Act, shall be deemed to be a reference to the corresponding provision of this Act;
 - (e) to any register, shall be deemed to be a reference to the corresponding register referred to in this Act;
 - (f) to a registrar, shall be deemed to be a reference to the registrar;
 - (g) to the Republic, shall be deemed to be a reference to Namibia.

30. Short title and commencement

This Act shall be called the Engineering Profession Act, 1986 and shall, subject to the provisions of sections 4(3), 16(8) and 17(6), come into operation upon a date to be determined by the President by proclamation in the Gazette.

Schedule I

Part A

Qualifications required for registration as a

Professional Engineer - Section 11

A four-year bachelor's degree in the engineering sciences awarded at a university, recognised for this purpose by the council, in the Republic of South Africa, or a qualification which in the opinion of the council is equivalent thereto.

Part B

Qualifications required for registration as a Incorporated Engineer - Section 12

[The term "incorporated engineer" should be preceded by "an" rather than "a" to be grammatically correct.]

A diploma in technology in engineering awarded subsequent to 1982 at a technikon, recognised for this purpose by the council, in the Republic of South Africa, or a qualification which in the opinion of the council is equivalent thereto.

Part C

Qualifications required for registration as an Engineering Technician - Section 13

A three-year national diploma in engineering awarded at a technical college or a technikon, recognised for this purpose by the council, in the Republic of South Africa, or a qualification which in the opinion of the council is equivalent thereto.

Schedule II

Part A

[Part A is amended by Government Notice 22 of 2004 and substituted by General Notice 563/2015 under the authority of section 16(7).]

Engineering titles reserved for professional engineers – Section 16

Agricultural Engineer
Chemical Engineer
Civil Engineer
Computer Engineer
Electrical Engineer
Electromechanical Engineer
Electronic Engineer
Environmental Engineer
Industrial Engineer
Marine Engineer
Mechanical Engineer
Mechatronics Engineer
Metallurgical Engineer
Mining Engineer
Nautical Engineer
Petrochemical Engineer
Petroleum Engineer
Telecommunication Engineer.

Part B

[Part B is amended by Government Notice 22 of 2004 and substituted by General Notice 563/2015 under the authority of section 17(4).]

Engineering titles reserved for professional engineers – Section 17

Incorporated Engineer - Agricultural
Incorporated Engineer - Chemical
Incorporated Engineer - Civil
Incorporated Engineer - Computer
Incorporated Engineer - Electrical
Incorporated Engineer - Electromechanical
Incorporated Engineer - Electronic
Incorporated Engineer - Environmental
Incorporated Engineer - Industrial
Incorporated Engineer - Marine
Incorporated Engineer - Mechanical
Incorporated Engineer - Mechatronics
Incorporated Engineer - Metallurgical
Incorporated Engineer - Mining
Incorporated Engineer - Nautical
Incorporated Engineer - Petrochemical
Incorporated Engineer - Petroleum
Incorporated Engineer - Telecommunication.