

Namibia

## Professional Land Surveyors', Technical Surveyors' and Survey Technicians' Act, 1993

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Republic of Namibia  
Annotated Statutes

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# Professional Land Surveyors', Technical Surveyors' and Survey Technicians' Act, 1993

## Act 32 of 1993

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Assented to on 6 December 1993

Commenced on 1 June 1994 by [Government Notice 85 of 1994](#)

*[Up to date as at 10 September 2021]*

*[Amended by [Professional Land Surveyors', Technical Surveyors' and Survey Technicians' Amendment, 1995 \(Act 16 of 1995\)](#) on 23 September 1995]*

ACT

**To provide for the establishment of a Namibian Council for Professional Land Surveyors, Technical Surveyors and Survey Technicians, and for its powers and functions; to provide for the registration of professional land surveyors, apprentice land surveyors, technical surveyors, apprentice technical surveyors, survey technicians and apprentice survey technicians, and to regulate their qualification, professional conduct and practice; and to provide for other matters connected therewith.**

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:-

## Part I – Preliminary provisions

### 1. Interpretation

In this Act, unless the context otherwise indicates -

“**annual subscriptions**” means the subscriptions levied by the Council under subsection (2) of section 6 and payable annually by registered practitioners under this Act;

“**approved society**” means a society to which a certificate of approval has been issued under subsection (1) of section 7;

“**chairperson**” and “**vice-chairperson**” means the chairperson and vice-chairperson of the Council elected under section 4;

“**committee**” means a committee of the Council established under section 8;

“**complaint**” means a complaint lodged against a practitioner under section 26;

“**Council**” means the Namibian Council for Professional Land Surveyors, Technical Surveyors and Survey Technicians established by section 2;

“**member**” or “**alternate member**” means a member or alternate member of the Council appointed under section 3;

“**Minister**” means the Minister of Lands, Resettlement and Rehabilitation;

“**practitioner**” means a person registered under section 17 as a practitioner;

“**prescribed**” means prescribed by regulation under section 31;

“**public service**” has the same meaning as under section 2 of the Public Service Act, 1980 (Act 2 of 1980);

*[The Public Service Act 2 of 1980 has been replaced by the Public Service Act 13 of 1995.]*

“**register**” means the register of practitioners referred to in section 13;

“**Registrar**” means the Registrar of the Council designated under section 5;

“**registration certificate**” means the certificate issued under section 17 to a registered practitioner, and includes a duplicate registration certificate issued under section 22;

“**registration fee**” means the fee prescribed under section 31 and payable by persons applying for registration as practitioners under this Act;

“**this Act**” includes regulations made thereunder.

## **Part II – The Namibian Council for Professional Land Surveyors, Technical Surveyors and Survey Technicians**

### **2. Establishment of Council**

There is hereby established a council to be known as the Namibian Council for Professional Land Surveyors, Technical Surveyors and Survey Technicians, which shall be -

- (a) a body corporate with perpetual succession;
- (b) capable of suing and being sued in its corporate name; and
- (c) capable of acquiring, purchasing, holding or disposing of movable and immovable property for the purposes of carrying out its functions under this Act.

### **3. Membership of Council and tenure of office**

- (1) The Council shall consist of the following members to be appointed by the Minister, namely -
  - (a) the Surveyor-General of Namibia;
  - (b) one person designated by the Minister from amongst the professional land surveyors in fulltime public service;
  - (c) two persons nominated by and representing the approved society of professional land surveyors;
  - (d) one person nominated by and representing the approved society of technical surveyors; and
  - (e) one person nominated by and representing the approved society of survey technicians.
- (2) The Minister shall by written notice require every approved society referred to in subsection (1) to nominate within 30 days of such notice or such further period as may be specified in the notice, the persons referred to in paragraph (c), (d) or (e) of that subsection for appointment to the Council, but

where an approved society fails to nominate such persons or does not exist, the Minister may appoint such other qualified persons as he or she may deem fit, to be members of the Council.

- (3) Where a member referred to in paragraph (b), (c), (d) or (e) of subsection (1) is by reason of absence or other disability, unable to attend the proceedings of the Council, an alternate member may be appointed in the same manner, to participate in those proceedings during the period of absence, and where the Surveyor-General is unable to attend the proceedings, he or she may designate an officer to represent him or her.
- (4) The Registrar shall in respect of every member of the Council publish by notice in the Gazette -
  - (a) the name of the member;
  - (b) the date of appointment to the Council and duration of the term of office; and
  - (c) the category of practitioners he or she represents.
- (5) A person shall not be eligible for appointment to the Council as member or alternate member if he or she -
  - (a) is not permanently resident in Namibia;
  - (b) is an unrehabilitated insolvent;
  - (c) is declared by a court of law to be of unsound mind or has been committed to a mental institution;
  - (d) has been convicted of an offence and been sentenced to a term of imprisonment without the option of a fine;
  - (e) has at any time been removed from an office of trust for fraudulent or dishonest conduct;
  - (f) has at any time been convicted of an offence under this Act or any other law relating to professional land surveyors, technical surveyors or survey technicians; or
  - (g) has at any time been found guilty of professional misconduct or been suspended under any law relating to professional land surveyors, technical surveyors or survey technicians from practising his or her profession.
- (6) Every member of the Council, other than the member referred to in paragraph (a) of subsection (1), shall hold office for a period of three years from the date of appointment: Provided that -
  - (a) a member whose term of office has expired shall continue in office for a further period not exceeding three months until his or her successor has been appointed;
  - (b) a member whose term of office has expired shall be eligible for re-appointment; and
  - (c) the Minister may, on the recommendation of the Council, extend or shorten the term of office of all or any of the members of the Council, other than the member referred to in paragraph (a) of subsection (1), by a period not exceeding one year.
- (7) Notwithstanding the provisions of subsection (6), the office of a member shall become vacant before the expiration of the term of office if he or she -
  - (a) dies;
  - (b) being a member referred to in paragraph (a) of subsection (1), ceases to be the Surveyor-General;
  - (c) having been appointed under paragraph (b) of subsection (1), ceases to be in full-time public service; or
  - (d) having been appointed under paragraph (b), (c), (d) or (e) of subsection (1) -
    - (i) notifies the Minister in writing of his or her intention to resign from the Council and the Minister accepts the resignation;
    - (ii) becomes subject to any of the disqualifications referred to in subsection (5);

- (iii) is absent from two consecutive meetings of the Council without its leave;
  - (iv) has his or her registration certificate cancelled and name removed from the register under section 19 or is suspended from practising his or her profession in pursuance of disciplinary proceedings under this Act;
  - (v) is removed from the Council in the public interest by the Minister after consultation with the Council; or
  - (vi) is removed from the Council by the Minister on the recommendation of the approved society which nominated him or her.
- (8) Where the office of a member falls vacant pursuant to the provisions of subsection (7), another person may, subject to the provisions of subsections (1) and (5), be appointed to fill the vacancy for the remaining term of office.

#### 4. Chairperson and vicechairperson of the Council

- (1) The members of the Council shall at the first meeting of the Council and thereafter as the need arises, elect from amongst themselves a chairperson and a vice chairperson of the Council, each of whom shall hold office during his or her term of office as a member of the Council, but no member shall hold the office of chairperson or vice-chairperson for more than two consecutive terms of office.
- (2) The chairperson shall preside over the meetings of the Council and in his or her absence, the vice-chairperson shall preside, but where both of them are unable to preside over a meeting by reason of absence, the members present shall elect one of themselves to preside over that meeting.
- (3) Where the chairperson or vice-chairperson resigns from that office before the expiry of the term of office, the members of the Council shall elect one of themselves to fill the vacancy and to hold office as chairperson or vice-chairperson, as the case may be, during his or her term of office as member of the Council.
- (4) A person may vacate the office of chairperson or vice-chairperson without terminating his or her membership of the Council.

#### 5. Registrar and staff of the Council

- (1) Subject to the provisions of the Public Service Act, 1980 (Act 2 of 1980), the Minister shall designate an officer in the public service to be the Registrar of the Council, who shall -  
*[The Public Service Act 2 of 1980 has been replaced by the Public Service Act 13 of 1995.]*
  - (a) be the secretary of the Council and committees of the Council; and
  - (b) perform any other duties as are imposed on him or her under this Act or by the Council.
- (2) Any power conferred, function assigned or duty imposed upon the Registrar under this Act may be exercised, performed or discharged by the Registrar personally or by an officer acting under the delegation, direction and control of the Registrar.
- (3) The Council may appoint such support staff as it deems necessary for the performance of its functions, upon such terms and conditions as the Council may determine.

#### 6. Functions and powers of the Council

- (1) The functions of the Council shall be to regulate and promote the training, qualification and practice of professional land surveyors, apprentice land surveyors, technical surveyors, apprentice technical surveyors, survey technicians and apprentice survey technicians, in Namibia.
- (2) For the purposes of carrying out the functions referred to in subsection (1), the Council shall in addition to the powers specified elsewhere in this Act, have the following powers, namely, to -

- (a) enter into contracts and determine the manner in which such contracts shall be entered into, on behalf of the Council;
- (b) receive and collect the funds of the Council and deposit, invest or expend them in accordance with the provisions of this Act;
- (c) levy upon and collect from every practitioner duly registered under this Act an annual subscription fee, the amount whereof shall be prescribed under section 31;
- (d) make recommendations to the Minister regarding regulations to be made under section 31;
- (e) advise the Minister on any matter relating to the land surveying profession and practice;
- (f) render financial assistance to Namibian students pursuing education or training in the field of land surveying and raise and administer funds for that purpose;
- (g) take such steps as it may deem necessary for -
  - (i) the maintenance of the integrity and enhancement of the land surveying profession and practice; and
  - (ii) the improvement of the standard of qualifications and of the professional services rendered by professional land surveyors, technical surveyors and survey technicians;
- (h) promote and encourage research into matters relating to land surveying by rendering technical, financial or other assistance to any educational institution or examining body in Namibia with regard to facilities for the education or training of prospective professional land surveyors, technical surveyors or survey technicians;
- (i) organise or aid the organisation of conferences, seminars and lectures in the field of land surveying or related fields;
- (j) finance, print, distribute and administer the publication of literary material in the field of land surveying or related fields; and
- (k) do any other thing necessary or expedient for the efficient performance of the Council's functions under this Act.

## 7. Recognition of approved society

- (1) Where a society representing -
  - (a) professional land surveyors;
  - (b) technical surveyors; or
  - (c) survey technicians,complies with the prescribed requirements for recognition as an approved society, it may apply in the prescribed manner to the Council for recognition, and the Council shall upon being satisfied as to such compliance grant the application and issue the society with a certificate of approval.
- (2) For the purposes of membership of the Council under subsection (1) of section 3, not more than one society shall be approved in respect of a category of practitioners referred to in subsection (1) of this section.
- (3) The Council shall publish by notice in the Gazette, the name of every society recognised under subsection (1) as an approved society.

## 8. Committees of the Council

- (1) Subject to the provisions of this Act, the Council may establish committees to advise and assist the Council in its functions under this Act, and may -

- (a) appoint such of its members, or such of its members and other persons of technical expertise as the Council may deem necessary, to be members of a committee;
  - (b) assign to a committee such of its functions as the Council may from time to time determine;
  - (c) designate one of the members of the Council on the committee to be the chairperson of the committee; and
  - (d) regulate the proceedings of such committee.
- (2) A committee established under subsection (1) shall in the performance of its functions, act in accordance with the directions of the Council and shall make its report and recommendations to the Council which shall take the final decision on any matter.
- (3) A committee to which the Council has assigned a function under this Act, shall, notwithstanding that the tenure of office of the Council members expires, continue to discharge that function until it concludes the assignment and reports to the Council in respect thereof, as if the function had been assigned to it by the newly-constituted Council.

## 9. Meetings and proceedings of the Council

- (1) Subject to the provisions of this section, the Council may determine and regulate its own procedure at meetings.
- (2) The Council shall hold its first meeting on a date and at a place and time to be determined by the Minister, and subsequent meetings shall be held at such times and places as the Council shall determine.
- (3) The chairperson of the Council may at any time, and shall at the request of not less than two-thirds of the members, convene a special meeting of the Council, after giving not less than fourteen days' notice of such meeting to all members.
- (4) The quorum for a meeting of the Council shall be four members who shall at least include -
  - (a) the Surveyor-General or his or her representative or a person referred to in paragraph (b) of subsection (1) of section 3; and
  - (b) one of the persons referred to in paragraph (c) of subsection (1) of section 3.
- (5) Decisions of the Council shall be made by a majority of votes of the members present and voting at a meeting and, in the event of an equality of votes, the chairperson or other member presiding shall have a casting vote in addition to his or her deliberative vote: Provided that -
  - (a) a resolution signed by at least two-thirds of the members of the Council, shall be deemed to have been duly and validly passed notwithstanding that it was not passed at a meeting of the Council; and
  - (b) a decision of the Council recommending to the Minister that this Act be amended, shall require a two-thirds majority vote of the members of the Council.
- (6) A decision, resolution or directive of the Council shall not be rendered invalid only by reason of a vacancy in the Council's membership at the time it was made, or of the fact that a person not entitled to sit as a member of the Council was present at the meeting during which the decision, resolution or directive was made, if it was made by the requisite majority of members present and entitled to vote.
- (7) The Council shall cause minutes of all its meetings and proceedings to be kept.

## Part III – Financial provisions

### 10. Funds and bank accounts of the Council

- (1) The funds of the Council shall consist of -

- (a) registration fees and annual subscriptions payable under this Act;
  - (b) loans, grants and subsidies paid to the Council under subsection (2);
  - (c) gifts or donations;
  - (d) rent, interest and any other moneys lawfully accruing to or vesting in the Council under this Act;
  - (e) moneys received by the Council by way of costs or fines under section 26; and
  - (f) any funds raised by the Council in exercise of its powers under section 6.
- (2) The Minister may grant subsidies or loans to the Council, out of moneys appropriated by Parliament for such purpose, upon such conditions as the Minister may determine.
- (3) All moneys paid to the Council shall as soon as is practicable after receipt thereof, be deposited into such bank account as the Council may, with the approval of the Minister, operate, and such account shall be operated in accordance with regulations prescribed under section 31.

## 11. Annual estimates of income and expenditure

- (1) The Council shall before the beginning of every financial year, cause to be prepared and shall adopt annual estimates of income and expenditure for that financial year, and may adopt supplementary estimates in respect thereof.
- (2) A copy of the annual estimates and supplementary estimates referred to in subsection (1) shall upon their adoption, be submitted to the Minister for approval, but such approval shall be granted in consultation with the Minister of Finance.
- (3) No expenditure shall be incurred by the Council during a financial year except in accordance with the estimates or supplementary estimates approved by the Minister in respect of that financial year.
- (4) The financial year of the Council shall commence on the first day of April in one year and end on the thirty-first day of March in the ensuing year.

## 12. Accounts, auditing and operational reports

- (1) The Council shall keep proper books of accounts and other records relating to the income and expenditure of the Council and shall, in respect of each financial year, cause to be prepared a statement of account and detailed balance sheet showing the Council's financial position as at the end of that financial year.
- (2) The accounts of the Council for each financial year shall be audited by an auditor appointed by the Council, who shall not later than three months after the close of that financial year submit a report in respect thereof to the Council, for circulation to each member of the Council and for public inspection.
- (3) The Council shall as soon as possible after close of the financial year, submit to the Minister in respect of that financial year -
  - (a) a report of the Council's operations and activities for that year;
  - (b) a copy of the Council's statement of account and balance sheet referred to in subsection (1); and
  - (c) a copy of the auditor's report referred to in subsection (2).
- (4) The Council may from time to time -
  - (a) submit to the Minister reports regarding its operations or activities which in the Council's opinion should be brought to the Minister's notice; and
  - (b) furnish the Minister with such information on matters of public interest and advice on matters regarding the land surveying profession, as the Council may acquire in the course of its functions under this Act.

## Part IV – Registration provisions

### 13. Register of practitioners

- (1) The Registrar shall keep and cause to be maintained in the prescribed form, a register of practitioners under this Act, consisting of the following parts, namely -
  - (a) a part containing the particulars of registered professional land surveyors;
  - (b) a part containing the particulars of registered technical surveyors;
  - (c) a part containing the particulars of registered survey technicians;
  - (d) a part containing the particulars of registered apprentice land surveyors;
  - (e) a part containing the particulars of registered apprentice technical surveyors; and
  - (f) a part containing the particulars of registered apprentice survey technicians,in which shall be entered in the appropriate part, the names, address, qualifications and date of registration of every person who is duly registered as a practitioner under this Act.
- (2) The register shall be kept at the office and in custody of the Registrar, whose duties in respect thereof shall include -
  - (a) preparing and maintaining the register in accordance with this Act and the directives of the Council;
  - (b) ensuring that the particulars of practitioners are correctly and accurately entered in the appropriate part of the register;
  - (c) deleting from the register the names of practitioners whose registration has been cancelled under any of the circumstances referred to in subsection (1) of section 19; and
  - (d) making necessary alterations with regard to the particulars of a registered practitioner.
- (3) The register shall be open to public inspection during normal hours of business upon payment of the prescribed fee.
- (4) It shall be the duty of every practitioner who alters any of his or her particulars recorded in the register to notify in writing the Registrar, within one month after the alteration, for amendment of the register.

### 14. Unregistered persons prohibited from practising

- (1) No person shall practise or hold himself or herself out as -
  - (a) a professional land surveyor;
  - (b) a technical surveyor;
  - (c) a survey technician;
  - (d) an apprentice land surveyor;
  - (e) an apprentice technical surveyor; or
  - (f) an apprentice survey technician,unless he or she is duly registered as such under the provisions of this Act.
- (2) For the purposes of this section a person shall be deemed to practise or hold himself or herself out as a practitioner if he or she -
  - (a) conducts a land survey for the purposes of drawing a diagram or plan of that land to be filed or registered under any law or referred to in any other document to be filed or registered;

- (b) conducts a land survey affecting the delimitation of boundaries or the location of the beacons of registered or unregistered land;
  - (c) uses a name, title, description, document or symbol likely to lead a person to infer therefrom that the user is a registered practitioner under this Act; or
  - (d) carries out work reserved for practitioners under section 31.
- (3) A person who contravenes the provisions of subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding N\$4 000.
- (4) Any company or other juristic person which -
- (a) performs or causes to be performed for any other person, whether a natural or juristic person, by any person, whether registered under this Act as a practitioner, any kind of work reserved for practitioners under this Act; or
  - (b) holds itself out or allows itself to be held out as a company or other juristic person performing any kind of work reserved for practitioners under this Act, or uses any name, title, description, document or symbol indicating or likely to lead a person to infer therefrom that it is a company or other juristic person performing any kind of work so reserved for practitioners,
- commits an offence and shall be liable on conviction to a fine not exceeding N\$4 000.

#### **14A. Authorization to practise as land surveyor, technical surveyor or survey technician in the public service**

- (1) Notwithstanding the provisions of section 14 the Minister may, upon an application by any person who is not registered under the provisions of this Act to practise as a professional land surveyor, a technical surveyor or a survey technician, as the case may be, but who -
- (a) in terms of the laws of any country or state approved by the Minister for that purpose, is entitled to practise the profession of a land surveyor, a technical surveyor or a survey technician, as the case may be, without further examination in that country or state; or
  - (b) although such person is not entitled to practise as contemplated in paragraph (a), at any educational institution situated outside Namibia, obtained a qualification or received education in land surveying which in the opinion of the Minister indicates a satisfactory standard of professional education,
- and complies with such further conditions or requirements as the Minister may determine, grant a written authority to such person to practise as a professional land surveyor, a technical surveyor or a survey technician, as the case may be.
- (2) Any person to whom a written authority has been granted under the provisions of subsection (1) -
- (a) shall be entitled to practise as a professional land surveyor, a technical surveyor or a survey technician, as the case may be -
    - (i) only in the public service;
    - (ii) for the period of time; and
    - (iii) subject to -
      - (aa) such restrictions in respect of such person's professional activities; and
      - (bb) such further conditions, including the condition that such person may practise only as such subject to such supervision,

as the Minister may determine and specify in such written authority;
  - (b) shall, subject to any restriction or condition imposed in respect of such person under the provisions

of paragraph (a), be competent and entitled to perform any act falling within the scope of the profession of a person who is registered under the provisions of this Act as a professional land surveyor, a technical surveyor or a survey technician, as the case may be, and which act such person could have performed if he or she had been registered as such under the provisions of this Act.

- (3) The Minister may, at his or her discretion -
- (a) at any time amend or revoke any restriction or condition imposed under the provisions of subsection (2);
  - (b) at any time impose such further and additional restrictions or conditions as he or she may determine;
  - (c) extent from time to time the period for which a written authority was granted under the provisions of subsection (1);  
*[The word "extend" is misspelt in the Government Gazette, as reproduced above.]*
  - (d) at any time suspend, for such period and subject to such conditions as he or she may determine, any written authority referred to in paragraph (c); or
  - (e) at any time withdraw any written authority referred to in paragraph (c).
- (4) An application made in terms of the provisions of subsection (1) shall be in such form and be made in such manner as the Minister may determine, and such application shall be accompanied by -
- (a) proof that the applicant complies with the provisions of paragraph (a) or (b), as the case may be, of subsection (1);
  - (b) such proof of the applicant's qualifications, identity and good character, and the authentication of such proof, as the Minister may require;
  - (c) such application fees as the Minister may determine; and
  - (d) any additional information or documents as the Minister may require.
- (5) After appointment by the Minister of the members of the Council in terms of the provisions of subsection (1) of section 3, no application made in terms of the provisions of subsection (1) of this section shall be granted unless the Minister has consulted the Council in regard to such application.
- (6) Before granting an application made in terms of the provisions of subsection (1), the Minister may require of the applicant concerned to sit for an examination before an examiner or examiners appointed by the Minister for the purpose of ascertaining whether the applicant, to the satisfaction of the Minister, possesses sufficient professional knowledge and skills.  
*[The word "of" in the phrase "the Minister may require of the applicant concerned to sit for an examination" is superfluous.]*
- (7) A reference in section 3 or, subject to the provisions of subsection (2) of this section, in section 14, to a professional land surveyor, a technical surveyor or a survey technician, as the case may be, shall include a reference to a person authorized under the provisions of subsection (1) to practise as a professional land surveyor, a technical surveyor or a survey technician respectively.
- (8) The provisions of paragraph (a) of subsection (5) of section 3 shall not apply to a person authorized under the provisions of section 1 to practise as a professional land surveyor, a technical surveyor or a survey technician, as the case may be.

*[section 14A inserted by Act 16 of 1995]*

## 15. Qualifications for registration

- (1) For the purposes of regulations referred to in paragraph (o) of section 31 the Minister may prescribe -
- (a) the courses of instruction to be undertaken and examinations or tests to be passed by applicants;

- (b) the nature and period of training, or apprenticeship to be undergone by apprentice practitioners under this Act;
  - (c) the certificates, degrees, diplomas or other credentials to be held from institutions of learning or training;
  - (d) the institutions of learning or training at which the courses, training, examinations or tests are to be undertaken; and
  - (e) any other condition that the Council may deem pre-requisite to the registration of practitioners under this Act.
- (2) Where in its consultation with the Minister under paragraph (o) of section 31 the Council recommends the recognition of a degree, diploma, certificate or other credential awarded by an institution of learning or training outside Namibia, the Council shall first satisfy itself that -
- (a) such degree, diploma, certificate or other credential entitles the holder thereof to practise a corresponding profession or occupation in the country in which such institution is situated; and
  - (b) the possession of such degree, diploma, certificate or other credential indicates a standard of professional training which provides the holder thereof with sufficient knowledge to practise as a practitioner under this Act.
- (3) In prescribing the qualifications referred to in subsection (1) of this section, the Minister may -
- (a) stipulate different qualifications for registration in respect of the different categories of practitioners under this Act; or
  - (b) exempt any person or category of persons from a prescribed qualification.
- (4) The Council shall in its annual report referred to in subsection (3) of section 12, specify the degrees, diplomas, certificates or other credentials which have been accepted and stipulated as qualifications for the registration of practitioners, for that year.
- (5) Notwithstanding the provisions of section 33 of this Act or of section 46(1) of the Land Survey Act, 1993 -
- (a) a person who immediately prior to the commencement of this Act held a certificate issued under subsection (2) of section 12 of the Land Survey Act, 1927 (Act 9 of 1927), but was not registered as a land surveyor, shall be deemed to be duly qualified for registration as a professional land surveyor under this Act and shall, on submission to the Council of such certificate, be entitled to have his or her name entered in the register and to be issued with a certificate of registration;
  - (b) a person who immediately prior to the commencement of this Act was duly registered -
    - (i) as a land surveyor under section 10 of the Land Surveyors' Registration Act, 1950 (Act 14 of 1950); or
    - (ii) with the South African Council for Professional and Technical Surveyors established by section 2 of the Professional and Technical Surveyors' Act, 1984 (Act 40 of 1984), of the Republic of South Africa as a professional land surveyor or technical surveyor, and was a member of the Institute of Land Surveyors of Namibia and practising in Namibia,
 shall be deemed to be duly registered under this Act as a professional land surveyor or technical surveyor, as the case may be, and shall, on submission to the council of proof of such prior registration and membership, be entitled to have his or her name entered in the register and to be issued with a certificate of registration;
 

*[paragraph (b) amended by Act 16 of 1995; not all of the changes are indicated by amendment markings]*
  - (c) any period of training in practical survey work undertaken by a person under the Land Survey Act, 1927, prior to the commencement of this Act, shall be taken into account by the Council in determining whether that person has complied with a requirement prescribed under paragraph (b) of subsection (1) of this section.

## 16. Application for registration

- (1) Any person who holds the prescribed qualifications for registration as -
  - (a) a professional land surveyor;
  - (b) a technical surveyor;
  - (c) a survey technician;
  - (d) an apprentice land surveyor;
  - (e) an apprentice technical surveyor; or
  - (f) an apprentice survey technician,may apply to the Council in the prescribed form to be registered as a practitioner under this Act.
- (2) An application for registration submitted under subsection (1) shall be accompanied by the prescribed registration fee.
- (3) Any person who, with intent to deceive or mislead the Council into believing that he or she is duly qualified to be registered as a practitioner under this Act -
  - (a) makes a false statement or representation as to his or her qualifications for registration; or
  - (b) withholds vital information about himself or herself, from the Council,commits an offence and shall be liable on conviction to a fine not exceeding N\$4 000 or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

## 17. Consideration of application and issue of registration certificate

- (1) On receipt of an application submitted under section 16, the Council shall examine it to ensure that -
  - (a) the application is in the prescribed form and accompanied by the prescribed registration fee;
  - (b) the applicant holds and has furnished proof of the prescribed qualifications for registration under the appropriate part of the register in respect of which the application has been submitted; and
  - (c) the applicant is not subject to any of the disqualifications referred to in subsection (3) of this section.
- (2) On consideration of an application under this section, the Council may -
  - (a) require the applicant to furnish further or better particulars;
  - (b) grant the application and direct the Registrar to enter the applicant's name in the appropriate part of the register and to issue him or her with a registration certificate; or
  - (c) reject the application on the grounds that the applicant -
    - (i) does not hold the requisite qualifications for registration as a practitioner under this Act; or
    - (ii) is subject to one or more of the disqualifications stipulated under subsection (3).
- (3) The Council may in its discretion disqualify an applicant from registration notwithstanding that he or she holds the requisite qualifications if he or she -
  - (a) has at any time been convicted of the offence of extortion, bribery, theft, fraud, forgery, uttering a false document, or perjury and has been sentenced in respect thereof to imprisonment or a fine exceeding N\$2 000;
  - (b) is declared by a court of law to be of unsound mind or is detained in a mental institution; or
  - (c) has at any time been removed from an office of trust on account of improper or dishonest conduct.

- (4) A registration certificate issued under this section shall -
  - (a) be in the prescribed form; and
  - (b) entitle the holder thereof to practise his or her profession or occupation and to describe himself or herself by his or her professional title.
- (5) Where an application for registration is rejected, the registration fee payable under subsection (1)(a) shall not be refundable.

## 18. Apprentices to work under supervision

A person who is registered -

- (a) as an apprentice land surveyor, may not perform any survey work except under the personal supervision of a professional land surveyor or such other person as the Council may direct;
- (b) as an apprentice technical surveyor, may not perform any survey work except under the personal supervision of a professional land surveyor, technical surveyor or such other person as the Council may direct; and
- (c) as a survey technician or an apprentice survey technician, may not perform any survey work except under the personal supervision of a professional land surveyor, technical surveyor, or such other person as the Council may direct.

## 19. Removal from Register and cancellation of certificate

- (1) The Registrar shall remove from the register the name of a practitioner and cancel his or her registration certificate in any of the following circumstances, namely -
  - (a) at the written request of that practitioner, but subject to the consent of the Council, that his or her name be removed from the register;
  - (b) on proof that the practitioner is deceased;
  - (c) where after due inquiry the Council finds that the registration of the practitioner was secured on false or incorrect information;
  - (d) where the practitioner becomes subject to any of the disqualifications referred to in subsection (3) of section 17 and the Council directs that his or her name be removed from the register;
  - (e) where the practitioner fails to pay the annual subscriptions within three months after such payment becomes due;
  - (f) where the Council directs that the practitioner's name be removed from the register under paragraph (c) subsection (5) of section 26; or
  - (g) where the practitioner having registered as an apprentice land surveyor, apprentice technical surveyor or apprentice survey technician, fails to undergo or complete his or her apprenticeship in accordance with the prescribed terms and conditions.
- (2) A practitioner whose name has been removed from the register in pursuance of the provisions of subsection (1) shall within thirty days after receiving notification from the Register of such removal, return the original registration certificate to the Registrar for cancellation.
- (3) A person whose name is removed from the register and who fails to return his or her registration certificate within the period prescribed in subsection (2), shall be guilty of an offence and liable on conviction to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.
- (4) The removal of a practitioner's name from the register or the cancellation of his or her registration certificate under this section shall not affect any civil, criminal or disciplinary liability incurred by that

practitioner prior to such removal or cancellation, including the liability for the payment of any outstanding annual subscriptions.

## 20. Reinstatement to register

- (1) A person whose name has been removed from the register may apply to the Council to have his or her name reinstated, upon showing good cause why he or she should be so reinstated, and upon payment of any outstanding arrears of annual subscriptions.
  - (2) Upon receipt of an application for reinstatement, the Council shall consider each case on its own merits and may in its discretion -
    - (a) grant the application and direct the Registrar to reinstate the applicant's name to the register upon such terms and conditions as the Council may specify; or
    - (b) reject the application.
- [The word "application" is misspelt in the Government Gazette, as reproduced above.]*
- (3) Where the applicant's name is reinstated to the register under this section, he or she shall not be required to pay registration fees again.

## 21. Suspension of mentally ill practitioners

- (1) Where after due inquiry the Council is satisfied that a practitioner is mentally ill to such an extent that it would be contrary to the public interest to allow him or her to continue to practise, the Council may suspend such practitioner from practice for a specified period, and may extend or shorten such period of suspension until the practitioner sufficiently recovers.
- (2) The provisions of section 26 shall mutatis mutandis apply to an inquiry under this section.

## 22. Lost certificates and issue of duplicates

- (1) Where a registration certificate is destroyed or irretrievably lost, the owner thereof may upon written application to the chairperson of the Council, supported by an affidavit stating the circumstances under which the original registration certificate was lost or destroyed, request for the issue of a duplicate registration certificate.
- (2) Upon the Council being satisfied that an application submitted under subsection (1) is made in good faith and that the original registration certificate is irretrievably lost or destroyed, the Council shall direct the Registrar to issue the applicant with a duplicate registration certificate.

## 23. Registrar to notify Surveyor-General and approved societies

The Registrar shall notify in writing the Surveyor-General and every approved society, of the name, address and qualifications of every person -

- (a) who is registered as a practitioner under this Act, including the date of such registration;
- (b) whose registration has been cancelled and whose name has been removed from the register under section 19, including the date of such removal;
- (c) whose name has been reinstated to the register under section 20, including the date of such reinstatement;
- (d) who has been subjected to disciplinary proceedings under this Act and is found guilty of professional misconduct, including any penalty imposed by the Council under those proceedings;
- (e) in respect of whom a decision or penalty of the Council has been set aside by the High Court on an appeal lodged under section 29;

- (f) who is convicted of an offence under this Act, by a court of law, including any penalty imposed therefor;
- (g) whose right to practise has been suspended under subsection (1) of section 21 or subsection (5)(b) of section 26.

## 24. Documentary evidence

- (1) In any civil, criminal or disciplinary proceedings under this Act -
  - (a) entries duly made in the register or any extract therefrom or copy thereof duly certified by the Registrar; and
  - (b) a registration certificate duly issued or a copy thereof duly certified by the Registrar,shall be proof of the facts stated therein until the contrary is proved.
- (2) A certificate 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 has or has not been done, shall be proof of the facts stated therein until the contrary is proved.

## Part V – Disciplinary provisions

### 25. Disciplinary powers of the Council

The Council shall have power in respect of every person who is or was registered as a practitioner under the provisions of this Act, to -

- (a) receive and inquire into any written complaint regarding the professional conduct and practice of such person while so registered;
- (b) initiate and conduct an inquiry into the professional conduct and practice of such person, with a view to ascertaining whether or not such conduct or practice amounts to professional misconduct;
- (c) summon any person who is in possession of information relevant to the Council's inquiry to appear before the Council at a specified date, time and place to testify;
- (d) require any person to produce any book, record, certificate, document or other evidence in his or her custody, that may be relevant to the Council's inquiry, for examination;
- (e) hear and receive oral, documentary or other evidence relevant to the Council's inquiry;
- (f) make a ruling at the conclusion of an inquiry and to take any of the measures referred to in subsection (5) of section 26.

### 26. Complaints and inquiries in respect of professional conduct

- (1) Any person who is aggrieved by the professional conduct or practice of a person registered as a practitioner under this Act, may lodge a written complaint against such practitioner with the chairperson.
- (2) Where the Council initiates an inquiry or receives a complaint lodged under subsection (1), it shall give written notice of the inquiry or complaint to the practitioner against whom it is made and summon him or her to appear before the Council at a specified time and place, and such practitioner shall be entitled to appear before the Council in person or by legal representation and to -
  - (a) be heard;
  - (b) adduce evidence; and
  - (c) cross-examine any witnesses testifying at the inquiry.
- (3) An inquiry under this section shall be conducted in accordance with the provisions of this Act and the procedure prescribed under section 31.

- (4) A person who, having been summoned to appear before the Council and to testify or to produce any book, record, certificate, document or other evidence before the Council, without reasonable cause -
- (a) fails or refuses to appear before the Council at the specified time and place; or
  - (b) having appeared before the Council, refuses to answer any question put to him or her truthfully and to the best of his or her knowledge; or
  - (c) refuses to produce or surrender any book, record, certificate, document or other evidence in his or her possession, required by the Council; or
  - (d) knowingly makes a false statement or representation to the Council,
- commits an offence and shall be liable on conviction to a fine not exceeding N\$2 000: Provided that no person shall be compelled to answer any question or to produce any book, record, document or other evidence at the Council's inquiry which he or she would not be compelled to answer or to produce during criminal proceedings in a court of law.
- (5) The Council may at the conclusion of an inquiry take any one or more of the following measures with respect to the practitioner against whom the inquiry was conducted, namely -
- (a) censure and caution such practitioner;
  - (b) suspend such practitioner from practising his or her profession for a specified period not exceeding one year;
  - (c) cancel the registration and direct the Registrar to remove the practitioner's name from the register;
  - (d) direct that the practitioner pays a fine not exceeding N\$1 000; or
  - (e) dismiss the complaint and exonerate the practitioner.
- (6) The Council may make an order in relation to the costs of an inquiry.
- (7) At the conclusion of an inquiry, the Registrar shall expeditiously notify in writing the parties to the disciplinary proceedings, of the Council's decision.

## 27. Professional misconduct

For the purposes of disciplinary proceedings against a practitioner, "professional misconduct" includes -

- (a) performing work of a nature reserved for practitioners under section 31 during a period of suspension imposed by the Council under section 21 or 26 of this Act;
- (b) performing work of a nature reserved for practitioners in connection with any matter which is the subject of a dispute or litigation on condition that the payment for such work will only be made if the dispute or litigation is resolved in favour of the party for whom the work is performed;
- (c) entrusting work reserved for a particular category of practitioners to a person or practitioner who does not belong to that category;
- (d) performing work reserved for a category of practitioners while not registered under that category;
- (e) accepting remuneration for professional services from a person other than the client or employer of the practitioner;
- (f) committing an offence under this Act; or
- (g) conducting himself or herself in a manner which in terms of any regulation made under section 31(1)(j) amounts to professional misconduct;
- (h) in the case of a professional land surveyor -
  - (i) except as provided in section 38(1) of the Land Survey Act, 1993 or in such circumstances as may be prescribed, signing a general plan or diagram of any piece of land in respect of which he or she has

not personally carried out or supervised the whole of the survey and field operations and carefully examined and satisfied himself or herself as to the correctness of the entries in any field book and of the calculations, working plans and other records in connection therewith which may have been made by any other person;

- (ii) signing a defective general plan or diagram knowing or having reason to know it to be defective;
- (iii) through negligence or incompetence, repeatedly performing defective surveys or surveys to which adequate checks have not been applied;
- (iv) making an entry in a field book or copy thereof or any other document which purports to have been derived from actual observation or measurement in the field when in fact it was not so derived;
- (v) supplying erroneous information to the Surveyor-General in connection with any survey, boundaries or beacons of land, knowing or having reason to know it to be erroneous; or
- (vi) contravening any of the provisions of the Land Survey Act, 1993 or of regulations made thereunder.

## **28. Disciplinary proceedings not to affect civil or criminal liability**

- (1) The institution of disciplinary proceedings against a practitioner under this Act shall not prejudice the right of any person to institute civil proceedings or of the Prosecutor-General to institute criminal proceedings against that practitioner based on the same facts.
- (2) Where after the commencement of disciplinary proceedings against a practitioner, criminal proceedings are instituted against that practitioner, the Council shall adjourn the disciplinary proceedings until the criminal proceedings have been concluded.
- (3) Where in the course of civil or criminal proceedings before a court of law it appears to the court that the evidence before it discloses a prima facie case of professional misconduct by a practitioner under this Act, the court shall cause a copy of the record of such proceedings, or such portion thereof as is relevant to the case, to be transmitted to the chairperson of the Council for disciplinary action.
- (4) Where at the conclusion of criminal proceedings in a court of law, a practitioner is convicted of an offence upon facts constituting or supporting a charge of professional misconduct under this Act, the record of court proceedings containing -
  - (a) the identity of the practitioner accused;
  - (b) the criminal offence with which he or she is charged;
  - (c) the proven facts upon which the conviction of the offence is based; and
  - (d) the conviction of the practitioner by the trial court,

shall be sufficient proof to the Council during disciplinary proceedings based on the same facts, that the practitioner is guilty of professional misconduct, unless the conviction is quashed by an appellate court.

## **29. Appeals from Council's decision**

- (1) Any person aggrieved by a decision made by the Council or penalty imposed by the Council under this Act, may within thirty days of notification of the Council's decision or penalty, appeal to the High Court against the decision or penalty, by notice of motion, naming the Council as the respondent.
- (2) The High Court may on appeal under this section take any one or more of the following measures, namely -
  - (a) confirm the Council's decision and penalty imposed;
  - (b) vary or set aside the Council's decision or penalty imposed or both the decision and penalty;
  - (c) remit the matter back to the Council for reconsideration; or

*[The word "reconsideration" is misspelt in the Government Gazette, as reproduced above.]*

- (d) make such order as to costs as it may deem necessary.
- (3) The decision of the Council shall not be set aside only by reason of an irregularity in the Council's proceedings if such irregularity did not prejudice the appellant's case.

## **Part VI – Miscellaneous and transitional provisions**

### **30. Immunity of Council and its members**

No civil or criminal proceedings shall be instituted against the Council or any of its members in respect of any act or duty performed in good faith in pursuance of the provisions of this Act.

### **31. Regulations**

- (1) The Minister may, after consultation with the Council, make regulations not inconsistent with this Act, prescribing -
  - (a) the allowances payable to members of the Council or a committee in the performance of their duties under this Act;
  - (b) the manner of operating the Council's bank accounts;
  - (c) the requirements for recognition as an approved society under this Act and the manner of an application under subsection (1) of section 7;
  - (d) the format of the certificate of approval to be issued to approved societies under subsection (1) of section 7;
  - (e) the format of the register to be kept under this Act and the manner of maintaining it;
  - (f) the format of the registration certificate to be issued to practitioners under section 17;
  - (g) the format of any application required to be submitted under this Act;
  - (h) the registration fees payable by applicants, the annual subscriptions payable by practitioners under this Act and the date on which payment of such fees and subscriptions becomes due;
  - (i) the inspection fee payable under subsection (3) of section 13;
  - (j) conduct amounting to professional misconduct by practitioners under this Act;
  - (k) the method of conducting disciplinary proceedings under this Act;
  - (l) the procedure for summoning and examining witnesses at an inquiry and the admissibility of evidence;
  - (m) the nature of professional work or services to be reserved for professional land surveyors, technical surveyors or survey technicians, as the case may be;
  - (n) the tariff of fees chargeable in respect of such reserved professional work or services and manner of taxation of such fees;
  - (o) subject to the provisions of section 15, the qualifications for registration of practitioners under this Act; and
  - (p) any other matter required to be prescribed under this Act.
- (2) Different regulations may be prescribed in respect of the different categories of practitioners under this Act.
- (3) Notwithstanding the provisions of section 46(1) of the Land Survey Act, 1993, any regulations relating to fees chargeable by land surveyors for professional services, made under subsection (1)(a) of section 7 or

section 8 of the Land Survey Act, 1927 (Act No. 9 of 1927) and in force at the commencement of this Act, shall continue in force as if made under this section, until repealed or otherwise amended.

### 32. The Institute of Land Surveyors of Namibia

- (1) Notwithstanding the repeal of the Land Surveyors Ordinance, 1963 (Ordinance 10 of 1963), the institution established under section 2 thereof shall continue to exist as a body corporate under this Act, to be known as the Institute of Land Surveyors of Namibia, and shall be deemed to be an approved society under section 7 representing professional land surveyors.
- (2) The Institute shall within one year from the commencement of this Act or such later date as the Minister may determine, comply with any requirements for recognition, prescribed under subsection (1)(c) of section 31.

### 33. Repeal of laws

The laws specified in the Schedule to this Act, are repealed.

### 34. Short title and commencement

This Act shall be called The Professional Land Surveyors', Technical Surveyors' and Survey Technicians' Act, 1993, and shall come into operation on a date to be fixed by the Minister by notice in the Gazette.

## Schedule

### LAWS REPEALED

#### (Section 33)

No. and year of law	Short title
Ordinance 10 of 1963	Land Surveyors' Ordinance, 1963
Act 14 of 1950	Land Surveyors' Registration Act, 1950
Act 36 of 1963	Land Surveyors' Registration Amendment Act, 1963
Act 65 of 1970	Land Surveyors' Registration Amendment Act, 1970
Act 21 of 1977	Land Surveyors' Registration Amendment Act, 1977