

THE PROFESSIONAL TOWN PLANNERS' COUNCIL BILL

Bill No. 31 of 2019

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THE PROFESSIONAL TOWN PLANNERS' COUNCIL BILL

(No. XXXI of 2019)

Explanatory Memorandum

The object of this Bill is to provide for the establishment of the Professional Town Planners' Council and for better regulation of the profession of town planners.

2. The Council will, inter alia –

- (a) regulate and control the profession of town planners;
- (b) register town planners;
- (c) exercise and maintain discipline in the profession of town planners, with the assistance of such Professional Conduct Committee as may be set up; and
- (d) promote advancement in the field of town planning.

3. The Bill also provides for the registration of firms of town planners and foreign firms of town planners in Mauritius.

20 September 2019

P. JHUGROO

Minister of Housing and Lands

THE PROFESSIONAL TOWN PLANNERS' COUNCIL BILL

(No XXXI of 2019)

ARRANGEMENT OF CLAUSES

Clause

PART I PRELIMINARY

1. [Short title](#)
2. [Interpretation](#)

PART II – THE COUNCIL

3. [Establishment of Council](#)
4. [Objects of Council](#)
5. [Functions of Council](#)
6. [Powers of Council](#)

PART III – MANAGEMENT OF COUNCIL

7. [Composition of Council](#)
8. [Vacancy in membership of Council](#)
9. [Meetings of Council](#)
10. [Registration Board](#)
11. [Committees](#)
12. [Disclosure of interest](#)
13. [Registrar](#)
14. [Delegation](#)
15. [Appointment of officers](#)
16. [Conditions of service of officers](#)
17. [Protection from liability](#)
18. [Powers of Minister](#)

PART IV – PROFESSIONAL TOWN PLANNER

19. [Town planning](#)
20. [Registration of professional town planner](#)
21. [Register](#)
22. [Annual fee](#)
23. [Annual list](#)

PART V – FIRM OF TOWN PLANNERS AND FOREIGN FIRM OF TOWN PLANNERS

24. [Firm of town planners](#)

25. [Foreign firm of town planners](#)

PART VI – DISCIPLINE

26. [Preliminary investigation](#)

27. [Disciplinary proceedings](#)

28. [Professional Conduct Committee](#)

29. [Proceedings of Professional Conduct Committee](#)

30. [Disciplinary measures](#)

31. [Other disciplinary measures](#)

32. [Summary proceedings](#)

33. [Effect of suspension or deregistration](#)

34. [Restoration of name and other particulars to Register](#)

PART VII - FINANCIAL PROVISION AND ACCOUNTS

35. [General Fund](#)

36. [Execution of documents](#)

37. [Donations](#)

38. [Annual report](#)

39. [Audit](#)

PART VIII – MISCELLANEOUS

40. [Seal of Council](#)

41. [Legal proceedings](#)

42. [Confidentiality](#)

43. [Review of decision of Council](#)

44. [Offences](#)

45. [Regulations](#)

46. [Savings and transitional provisions](#)

47. [Commencement](#)

SCHEDULE

A BILL

To establish the Professional Town Planners' Council and to provide for better regulation of the profession of town planners

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the **Professional Town Planners' Council Act**.

2. Interpretation

In this Act –

“Chairperson” means the Chairperson of the Council;

“Code of Practice” means such Code of Practice as may be prescribed under section 45;

“committee” means a committee set up under section 11;

“competent authority” means an authority in a foreign country authorising a person to practise town planning;

“Continuous Professional Development programmes” means programmes, courses, lectures, seminars, conferences or workshops in relation to –

(a) new town planning techniques and methods of management;

(b) changes in planning law, planning guidelines and standards; or

(c) any other matter related to the profession of town planners;

“Council” means the Professional Town Planners' Council established under section 3;

“delegated power” means the power delegated, under section 89(2)(b)(i) of the Constitution and subject to Part IVA of the Public Service Commission Regulations, to the Council by the Public Service Commission to enquire and report into any complaint of professional misconduct or negligence against a professional town planner appointed by the Public Service Commission;

“financial year” has the same meaning as in the Finance and Audit Act;

“firm of town planners” means a firm, body, group, company or partnership which provides town planning services and is under the control of a professional town planner;

“foreign firm of town planners” means a firm, body, group, company or partnership which provides town planning services and is under the control of a foreign town planner;

“foreign town planner” –

(a) means a non-citizen who is –

(i) authorised by the competent authority in his country to practise town planning; or

(ii) a professional member of a recognised institution of his country in the field of town planning; but

(b) does not include a non-citizen who is a resident of Mauritius and whose name is entered on the Register;

“investigation” means a preliminary investigation under section 26;

“licensed auditor” has the same meaning as in the Financial Reporting Act;

“member” –

(a) means a member of the Council; and

(b) includes the Chairperson and the Vice-chairperson;

“Minister” means the Minister to whom responsibility for the subjects of housing and lands are assigned;

“Ministry” means Ministry responsible for the subjects of housing and lands;

“officer” –

(a) means an officer appointed under section 15; and

(b) includes the Registrar;

“Professional Conduct Committee” means a Professional Conduct Committee set up under section 28;

“professional town planner” means a person who is registered as such under section 20;

“Register” means the register of professional town planners, kept under section 21;

“Registrar” means the Registrar of the Council appointed under section 13;

“Registration Board” means the Registration Board set up under section 10;

“supervising officer” means the supervising officer of the Ministry;

“town planning” –

(a) means the spatial organisation of various land uses, sustainable land development, preservation and enhancement of amenity of the natural and built environment, the coordination and efficient provision of infrastructure, provision of socio-economic activities and design of urban forms; and

(b) includes urban and regional planning, town and country planning, city planning, spatial planning or land use planning;

“Vice-chairperson” means the Vice-chairperson of the Council.

PART II – THE COUNCIL

3. Establishment of Council

(1) There is established for the purposes of this Act the Professional Town Planners’ Council.

(2) The Council shall be a body corporate.

(3) The principal place of business of the Council shall be at such place as it may determine.

4. Objects of Council

The Council shall –

- (a) regulate and control the profession of town planners; and
- (b) promote advancement in the field of town planning.

5. Functions of Council

The Council shall –

- (a) register professional town planners;
- (b) exercise and maintain discipline in the profession of town planners –
 - (i) in relation to a professional town planner who is appointed by the Public Service Commission and in respect of whom the Council holds a delegated power, to the extent and within the limits of that delegation of power; and
 - (ii) in relation to any other professional town planner;
- (c) ensure that the Code of Practice is complied with by professional town planners;
- (d) disseminate literature on developments in the field of town planning, new town planning techniques or any other related matter to professional town planners;
- (e) co-operate with any other institution having objects wholly or partly similar to its objects;

- (f) approve, organise or cause to be organised Continuous Professional Development programmes or any other programmes, courses, lectures, seminars, conferences or workshops for the purpose of updating professional knowledge and skills in the field of town planning;
- (g) publish an annual list of professional town planners;
- (h) provide for the registration of firms of town planners and foreign firms of town planners;
- (i) keep a record of its proceedings and decisions; and
- (j) advise the Minister on any matter relating to the profession of town planners.

6. Powers of Council

The Council shall have such powers as may be necessary to discharge its functions most effectively and may, in particular –

- (a) enter into any contract or other agreement;
- (b) set up any committee;
- (c) sell or exchange any property;
- (d) subject to section 37, make or receive any grant or donation;
- (e) borrow money and raise funds;
- (f) collect or receive any fee, rental, interest or other sum which may lawfully accrue to it; and
- (g) generally do such acts and things as may be necessary for the purposes of this Act.

PART III – MANAGEMENT OF COUNCIL

7. Composition of Council

- (1) The Council shall consist of –
 - (a) 4 professional town planners, to be appointed by the Minister from among town planners posted at the Ministry;
 - (b) 3 professional town planners, to be appointed by the Minister upon the recommendation of the Minister responsible for the subject of local government;
 - (c) 2 professional town planners in private practice to be elected in the manner specified in the Schedule;
 - (d) a representative of the Ministry; and
 - (e) a representative of the Attorney-General's Office.

(2) The Council shall elect a Chairperson and a Vice-chairperson from among the members referred to in subsection (1)(a), (b) and (c).

(3) A member, other than a member referred to in subsection (1)(d) or (e) shall, subject to section 8, hold office for a period of 2 years and shall be eligible for reappointment or re-election, as the case may be.

(4) Every member shall be paid such fee or allowance as the Council may determine.

8. Vacancy in membership of Council

(1) A member, other than a member referred to in section 7(1)(d) or (e), shall cease to hold office –

- (a) on completion of his term of office; or
- (b) upon his resignation, by notice in writing given to the Registrar.

(2) Where a member resigns under subsection (1)(b), his seat shall become vacant as from the date on which the Registrar receives the notice.

(3) The Council may remove from office any member, other than a member referred to in section 7(1)(d) or (e), who –

- (a) is suspended or deregistered as a professional town planner under this Act;
- (b) is absent, without leave of the Council, from 3 consecutive meetings of the Council;
- (c) becomes insolvent, assigns his estate for the benefit of his creditors or makes an arrangement with his creditors;
- (d) commits an act of professional misconduct, malpractice, negligence, fraud or dishonesty, or a breach of the Code of Practice, which, in the opinion of the Council, renders him unfit to be a member;
- (e) is convicted of an offence of such nature as, in the opinion of the Council, renders him unfit to be a member;
- (f) is suffering from such mental or physical impairment as, in the opinion of the Council, renders him unfit to be a member; or
- (g) fails to disclose any pecuniary or other material interest which he has in relation to any matter before the Council.

(4) The Council may suspend from office, for such time as it may determine, any member who is –

- (a) liable to be removed from office under subsection (3);
- (b) guilty of a minor breach of the Code of Practice; or
- (c) the subject of an investigation.

(5) Where a vacancy occurs in the membership of the Council, the vacancy shall be filled, in the case of a member –

- (a) appointed under section 7(1)(a) or (b), by a fresh appointment; or
- (b) elected under section 7(1)(c), by appointing the professional town planner who obtained the highest number of votes after the elected professional town planner at the election held immediately before the vacancy arose.

(6) A person appointed under subsection (5) shall hold office for the remainder of the term of office of the person whom he replaces.

9. Meetings of Council

(1) The Council shall meet as often as the Chairperson may determine but at least once every month.

(2) A meeting of the Council shall be held at such time and place as the Chairperson may determine.

(3) At a meeting of the Council, 7 members shall constitute a quorum.

(4) (a) The Chairperson or, in his absence, the Vice-chairperson shall preside over a meeting of the Council.

(b) Where the Chairperson and the Vice-chairperson are absent from a meeting of the Council, the members present shall elect one of the members referred to in section 7(1)(a), (b) or (c) to chair the meeting.

(5) (a) A special meeting of the Council—

- (i) may be convened by the Chairperson at any time; or
- (ii) shall be convened by the Registrar within 21 days of the receipt of a request in writing signed by not less than 5 members.

(b) Any request made under paragraph (a)(ii) shall specify the purpose for which the special meeting is to be convened.

(6) The Council may, where it considers necessary, co-opt such other persons with relevant expertise not already available to the Council to assist it in relation to any matter before it.

(7) At any meeting of the Council, each member shall have one vote on a matter in issue and, in the event of an equality of votes, the person presiding shall have a casting vote.

(8) Subject to this section, the Council shall regulate its meetings and proceedings in such manner as it may determine.

10. Registration Board

(1) The Council shall set up a Registration Board to assist it in the determination of applications for the registration of professional town planners.

(2) The Registration Board shall consist of –

(a) a chairperson; and

(b) 2 assessors,

to be appointed, subject to subsection (3), by the Council on such terms and conditions as it may determine.

(3) The chairperson and the 2 assessors referred to in subsection (2) shall be professional town planners –

(a) with at least 10 years' experience in the field of town planning; and

(b) who have not been convicted of an offence involving fraud or dishonesty in any country.

11. Committees

(1) The Council may set up such committees as may be necessary to assist it in the discharge of its functions, including the conduct of an investigation.

(2) A committee shall consist of not less than 3 members and such other persons as may be co-opted by the Council.

(3) A committee shall –

(a) meet as often as is necessary and at such time and place as the chairperson of the committee may determine;

(b) meet as and when required by the Council; and

(c) regulate its meetings and proceedings in such manner as it may determine.

(4) A committee shall submit its report within such time as the Council may determine.

(5) The report referred to in subsection (4) shall contain the committee's observations, comments, recommendations or findings, if any, on any matter referred to it.

12. Disclosure of interest

(1) Where any member, or any person related to the member by blood or marriage, has a pecuniary or other material interest in relation to any matter before the Council, the Registration Board or a committee, that member –

(a) shall disclose the nature of the interest before or at the meeting convened to discuss that matter; and

(b) shall not take part in any deliberations relating to that matter.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of proceedings of the meeting of the Council, the Registration Board or the committee.

13. Registrar

(1) The Council shall appoint, on such terms and conditions as it may determine, a professional town planner to act as Registrar of the Council.

(2) The Registrar shall be responsible for the proper administration of the Council.

(3) The Registrar shall act as Secretary to the Council and –

(a) shall, for every meeting of the Council –

(i) give notice of the meeting to the members;

(ii) prepare and attend the meeting;

(iii) keep minutes of proceedings of the meeting; and

(b) may take part in the deliberations of the meeting of the Council, but shall not have the right to vote.

(4) The Registrar may also act as Treasurer to the Council.

(5) The Registrar shall carry out such other duties and discharge such other functions as may be assigned to him by the Council.

(6) Where the Registrar is for any reason unable to perform his functions, the Council may appoint another professional town planner to act as Registrar.

14. Delegation

(1) The Council may, subject to such instructions as it may give, delegate to the Registrar such of its functions and powers as may be necessary for the effective

management of the day to day business and activities of the Council, other than the power to

–

- (a) sell or exchange any property;
- (b) make or receive any grant or donation;
- (c) borrow money and raise funds.

(2) The Registrar may, with the approval of the Council, delegate his functions and powers to such officer as he may designate.

15. Appointment of officers

(1) The Council may appoint such officers as it considers necessary for the proper discharge of its functions under this Act.

(2) Every officer shall be under the administrative control of the Registrar.

16. Conditions of service of officers

The Council may make provision to govern the conditions of service of its officers and, in particular, to deal with –

- (a) the appointment, dismissal, discipline, pay and leave of, and the security to be given to, officers;
- (b) appeals by officers against dismissal and any other disciplinary measure.

17. Protection from liability

No liability, civil or criminal, shall be incurred by the Council, any member of the Council, the Registration Board or a committee or any officer, in respect of any act done or omitted by it or him in good faith in the discharge of its or his functions, or exercise of its or his powers, under this Act.

18. Powers of Minister

(1) The Minister may give such directions of a general character in writing to the Council, not inconsistent with this Act, as he considers necessary in the public interest, and the Council shall comply with those directions.

(2) The Minister may require the Council to furnish any information or document in relation to its activities, and the Council shall supply such information or document.

PART IV – PROFESSIONAL TOWN PLANNER

19. Town planning

(1) No person shall practise town planning in Mauritius unless he is registered as a professional town planner with the Council.

(2) Nothing in this Act shall prevent –

- (a) a person who holds a degree, diploma or an equivalent qualification in town planning, from providing town planning services which do not include final decisions and are done under the direct responsibility and supervision of a professional town planner;
- (b) a person from working as an employee or subordinate of a professional town planner where the work is done under the direct responsibility and supervision of that professional town planner;
- (c) a person from practising his profession, trade or calling as a professional engineer, professional architect, urban designer or landscape architect;
- (d) a Development Control Officer, who is posted at the Ministry, and a Planning and Development Inspector serving in local authorities, from practising town planning in accordance with their scheme of service.

20. Registration of professional town planner

(1) No person shall be registered as a professional town planner unless he –

- (a) satisfies the Council that he –
 - (i) has attained the age of 21;
 - (ii) has not been convicted of an offence involving fraud or dishonesty in any country;
 - (iii) has not been disqualified or deregistered from practising town planning on account of professional misconduct, professional negligence, fraud, dishonesty or breach of a code of practice in any country; and
 - (iv) does not suffer from any mental impairment which is likely to hamper the performance of his duties as professional town planner;
- (b) holds a degree or a post graduate degree or an equivalent qualification in town planning from a university or other institution which is approved by the Council;
- (c) satisfies the Council, subject to subsection (3), that –
 - (i) he has at least 2 years' post-qualification experience in town planning; and
 - (ii) he has prepared a project related to the field of land use or spatial planning as assigned to him by the Council;
- (d) pays such registration and annual fee as may be prescribed.

(2) (a) A person who wishes to be registered as a professional town planner shall make a written application to the Registrar in such form and manner as the Council may determine.

- (b) An application made under paragraph (a) shall be accompanied by –

- (i) a copy of the applicant's birth certificate and National Identity Card, or any other acceptable evidence of his identity, and in the case of a non-citizen, a copy of his passport;
- (ii) the original or a certified copy of the applicant's degree or equivalent qualification in town planning;
- (iii) subject to subsection (3), evidence of not less than 2 years' post-qualification experience in town planning and evidence that the applicant has prepared a project related to the field of land use or spatial planning as assigned to him by the Council;
- (iv) such processing fee as may be prescribed; and
- (v) such additional document or information as the Registrar may require.

(3) An applicant shall not be required to submit particulars under subsection (2)(b)(iii) where he satisfies the Council that he is registered as a —

- (a) professional member in the field of town planning with the Royal Town Planning Institute of the United Kingdom; or
- (b) town planner with such other body as may be prescribed.

(4) (a) On receipt of an application made under subsection (2), the Council shall refer the application to the Registration Board for its recommendations.

(b) The Registration Board shall, in assessing the application made under subsection (2), call the applicant for an interview.

(5) (a) The Council may, after due consideration of the recommendations of the Registration Board, grant or reject the application and shall forthwith notify the applicant of its decision.

(b) Where the Council grants an application under paragraph (a), it shall, upon payment by the applicant of such registration and annual fee as may be prescribed,

register the applicant as a professional town planner and issue to him a certificate of registration, subject to such terms and conditions as the Council may determine.

(c) Where the Council registers a professional town planner under paragraph (b), the Registrar shall forthwith enter in the Register, the name, address and qualifications of that professional town planner.

(6) Where the Council is satisfied that a professional town planner has damaged or lost his certificate of registration, it may, on payment of such fee as may be prescribed, issue a duplicate certificate of registration to him.

21. Register

(1) The Registrar shall keep a Register of professional town planners, or such other register as may be necessary, in such form and manner as the Council may determine.

(2) The Registrar shall enter in the Register –

- (a) the name, address and qualifications of every professional town planner;
- (b) any alteration in the particulars of a professional town planner;
- (c) where a professional town planner has been suspended or deregistered, an annotation to that effect; and
- (d) such other particulars as the Council considers appropriate.

(3) (a) Subject to subsection (2), where after registration, a professional town planner obtains any additional qualification in the field of town planning, the Council may, upon application by the professional town planner, add the additional qualification to the professional town planner's particulars in the Register.

(b) An application made under paragraph (a) shall be accompanied by such fee as may be prescribed.

22. Annual fee

(1) Every professional town planner shall, on or before 31 May in every year, pay to the Registrar such annual fee as may be prescribed in respect of the year commencing on 1 July of the following year.

(2) Where a professional town planner fails to comply with subsection (1), he shall be liable to pay the annual fee, together with a surcharge of 50 per cent of the annual fee, by 31 July in the year in respect of which it is due.

(3) Where a professional town planner fails to pay the annual fee together with the surcharge required under subsection (2), the Council may deregister the professional town planner.

(4) Where a professional town planner is deregistered under subsection (3), the Council shall cause the Registrar to remove the name and other particulars of the professional town planner from the Register.

(5) The Council may, where a professional town planner is deregistered, restore the name and other particulars of the professional town planner on the Register on good cause shown and on payment of the annual fee together with its surcharge.

23. Annual list

(1) The Registrar shall, not later than the end of August in every year, transmit to the Minister a list of all professional town planners registered for that year.

(2) The Council shall, not later than 1 September in every year, publish in the Gazette an annual list of professional town planners for that year.

PART V – FIRM OF TOWN PLANNERS AND FOREIGN FIRM OF TOWN PLANNERS

24. Firm of town planners

(1) No firm of town planners shall provide town planning services in Mauritius unless the firm is registered by the Council on such terms and conditions as may be prescribed.

(2) An application for the registration of a firm of town planners shall be made in such form and manner as may be prescribed.

25. Foreign firm of town planners

(1) No foreign firm of town planners shall provide town planning services in Mauritius unless the firm is registered with the Council on such terms and conditions as may be prescribed.

(2) An application for the registration of a foreign firm of town planners shall be made in such form and manner as may be prescribed.

PART VI – DISCIPLINE

26. Preliminary investigation

(1) The Council may investigate any complaint of –

- (a) professional misconduct, malpractice or negligence; or
- (b) a breach of the Code of Practice,

against a professional town planner, including a professional town planner in respect of whom the Council holds a delegated power.

(2) Where the Council investigates a complaint, it –

- (a) shall notify the professional town planner whose conduct, act or omission is under investigation, of the nature of the complaint against him;
- (b) may summon and hear the professional town planner who shall be given an opportunity of being assisted by a legal representative of his choice;
- (c) may summon and hear witnesses;

- (d) may call for the communication or production of any relevant record, document or article; and
- (e) shall complete its investigation not later than 3 months from the date the investigation starts.

(3) The Council shall, when investigating a complaint, keep a proper record of its proceedings.

(4) (a) Where, in the course of an investigation, any person refuses to communicate or produce any record, document or article on the ground of confidentiality, the Registrar may apply to the Judge in Chambers for an order directing that person to communicate or produce the record, document or article required for the purpose of the investigation.

(b) Where the Judge is satisfied that the record, document or article sought is bona fide required for the purpose of the investigation, he may make an order under paragraph (a).

(5) (a) The Council may, for the purpose of an investigation, appoint a committee consisting of not less than 3 members.

(b) A member who –

- (i) is closely related to a professional town planner, including a professional town planner in respect of whom the Council holds a delegated power, whose conduct, act or omission is under investigation; or
- (ii) has any pecuniary or other personal interest in the subject-matter of an investigation,

shall disclose his relationship or interest, as the case may be, and refrain from participating in the investigation.

(c) The committee may exercise any of the powers of the Council under subsection (2)(b), (c) or (d).

27. Disciplinary proceedings

(1) Where, after an investigation, the Council considers it necessary to prefer charges against a professional town planner, it shall forward to the professional town planner a statement of those charges and call upon him to state in writing, before such date as the Council may specify, any grounds on which he relies to exculpate himself.

(2) Where the professional town planner does not furnish a reply to any charge forwarded under subsection (1) within the period specified or where, in the opinion of the Council, he fails to exculpate himself, the Council may, subject to section 32, institute disciplinary proceedings against him before a Professional Conduct Committee.

28. Professional Conduct Committee

(1) The Council may, for the purpose of section 27, set up a Professional Conduct Committee which shall consist of –

- (a) a chairperson, who is or has been a Judge or Magistrate, or is a barrister of not less than 10 years' standing; and
- (b) 2 assessors, who shall be professional town planners with not less than 10 years' experience and who are not members.

(2) The chairperson and assessors of a Professional Conduct Committee shall be appointed by the Council on such terms and conditions as the Council may determine.

(3) The Council shall appoint a secretary who shall keep the minutes of proceedings of every meeting of the Professional Conduct Committee.

(4) (a) Where the chairperson or an assessor of a Professional Conduct Committee is related by blood or marriage to a professional town planner who is the subject of disciplinary proceedings, the chairperson or assessor shall disclose his relationship to the Professional Conduct Committee and shall not take part in those proceedings.

(b) Any disclosure made under paragraph (a) shall be recorded in the minutes of proceedings.

(c) Where the chairperson or an assessor does not take part in the proceedings under paragraph (a), the Council shall appoint another person to replace him.

(d) Any person appointed under paragraph (c) shall satisfy the requirements of subsection (1)(a) or (b), as the case may be.

29. Proceedings of Professional Conduct Committee

(1) A Professional Conduct Committee shall meet at such time and place as the chairperson of the Committee thinks fit.

(2) Where disciplinary proceedings are instituted under section 27, the Professional Conduct Committee shall inquire into the charges preferred against the professional town planner.

(3) A Professional Conduct Committee may –

(a) summon any person to appear before it to give evidence or produce any record, document or article; or

(b) take evidence on oath, solemn affirmation or declaration and, for that purpose, administer an oath, solemn affirmation or declaration, as the case may be.

(4) (a) Where, in the course of any disciplinary proceedings, a person refuses to communicate or produce any record, document or article, the Registrar may apply to a Judge in Chambers for an order directing that person to communicate or produce the record, document or article required for the purpose of the proceedings.

(b) Where the Judge is satisfied that the record, document or article sought is bona fide required for the purpose of the proceedings he may make an order under paragraph (a).

30. Disciplinary measures

(1) A Professional Conduct Committee shall, after having heard any disciplinary proceedings, forward to the Council its report and a copy of its proceedings, including any record, document or article produced, not later than one month after the completion of the proceedings.

(2) The report under subsection (1) shall include –

- (a) a finding as to whether the charge has been proved or not, and the reasons for such finding;
- (b) details of any matter which, in the opinion of the Professional Conduct Committee, aggravates or alleviates the gravity of the charge; and
- (c) a summing up and such comments as will indicate clearly the opinion of the Professional Conduct Committee on the subject matter of the disciplinary proceedings.

(3) The Professional Conduct Committee shall not, in its report, make any recommendation regarding the form of disciplinary measure.

(4) (a) Where the report is in relation to a professional town planner, other than a professional town planner in respect of whom the Council holds a delegated power, and states that the charge has been proved, the Council may –

- (i) administer him a warning or a severe warning;
- (ii) suspend him as a professional town planner for a period not exceeding 2 years; or
- (iii) deregister him as a professional town planner.

(b) Where the report is in relation to a professional town planner in respect of whom the Council holds a delegated power, the Council shall submit its own report to the Public Service Commission, in accordance with regulation 46E of the Public Service Commission Regulations.

(5) Where the sanction imposed by the Public Service Commission on a professional town planner, in respect of whom the Council holds a delegated power, is dismissal or retirement in the interest of the public service, the Council shall determine whether or not it shall suspend or deregister the professional town planner.

(6) A decision of the Council under subsection (4) or (5) shall be communicated to the professional town planner not later than 14 days from the date of the decision.

31. Other disciplinary measures

Without any of the proceedings provided for in sections 26 and 27 being instituted, the Council shall, where a professional town planner has been convicted of an offence and is serving a sentence of imprisonment or penal servitude –

- (a) suspend him as a professional town planner for such time as the Council may determine; or
- (b) deregister him as a professional town planner.

32. Summary proceedings

Where the Council is satisfied, after having carried out an investigation against a professional town planner, other than a professional town planner in respect of whom the Council holds a delegated power, that he has committed an act or omission which, in its opinion, is not considered to be of a serious nature, it may administer a warning or a severe warning to him.

33. Effect of suspension or deregistration

The Council shall cause the Registrar –

- (a) to remove from the Register the name and other particulars of any professional town planner who has been deregistered under this Act;
- (b) to give notice of any suspension or deregistration under this Act in the Gazette and in 2 daily newspapers.

34. Restoration of name and other particulars to Register

(1) Where the name and other particulars of a professional town planner have been removed from the Register in accordance with this Act, the name and other particulars of that person shall not be restored to the Register except by order of the Council or of the Supreme Court.

(2) The Council may, on its own motion or on application of the person concerned and after holding such inquiry as it may determine, cause the professional town planner's name and other particulars to be restored to the Register.

PART VII – FINANCIAL PROVISIONS AND ACCOUNTS

35. General Fund

The Council shall set up a General Fund –

(a) into which shall be paid –

(i) any grant, donation and contribution received by it;

(ii) any fee, rental or interest; and

(iii) any other sum which may lawfully accrue to it;

(b) out of which all payments required to be made by the Council shall be effected.

36. Execution of documents

(1) Subject to subsection (2), no deed, instrument, contract or other document shall be executed or signed by or on behalf of the Council unless it is signed by the Chairperson or, in his absence, by the Vice-chairperson.

(2) No cheque shall be signed by or on behalf of the Council unless it is signed by–

- (a) the Chairperson or, in his absence, by the Vice-chairperson; and
- (b) the Registrar.

37. Donations

Article 910 of the Code Civil Mauricien shall not apply to the Council.

38. Annual report

(1) The Board shall submit an annual report to the Minister, together with an audited statement of accounts, on the operations of the Council in respect of every financial year.

(2) The Minister shall, at the earliest available opportunity, lay a copy of the annual report and audited accounts of the Council before the Assembly.

39. Audit

(1) The Council shall keep proper accounts of all sums received and paid.

(2) The accounts for each financial year shall be audited by a licensed auditor appointed by the Council.

PART VIII – MISCELLANEOUS

40. Seal of Council

The seal of the Council shall bear such device as the Council may approve.

41. Legal proceedings

(1) The Council shall act, sue and be sued in its corporate name.

(2) Service of process by or on the Council shall be sufficient if made on behalf of or on the Registrar.

42. Confidentiality

(1) No member of the Council, the Registration Board or a committee or officer shall, during or after his relationship with the Council, use or disclose any matter which comes to his knowledge in the performance of his functions, except for the purpose of administering this Act.

(2) Any person who, without lawful excuse, contravenes subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 12 months.

43. Review of decision of Council

(1) A person who is aggrieved by a decision of the Council –

- (a) not to register him as a professional town planner; or
- (b) to take any disciplinary measure against him,

may apply for judicial review of the decision before the Supreme Court.

(2) On an application under subsection (1), the Supreme Court may make such order or give such directions in the matter as it may determine.

44. Offences

(1) Subject to section 19(2), any person who –

- (a) not being registered, or being suspended or deregistered, as a professional town planner –
 - (i) practises town planning;
 - (ii) takes or uses the name, description or title “Professional Town Planner”, “Chartered Town Planner”, “Authorised Town Planner”, “Authorised Foreign Town Planner”, “Consulting Town Planner”, “Qualified Town Planner” or “Town Planner”, or

any abbreviation thereof in whatever language, either alone or in connection with any other title, name, word or letter;

(iii) holds himself out or conducts himself as a professional town planner;

(iv) by any wilful act or omission, causes or induces any person to believe that he is a professional town planner; or

(v) demands, sues for or recovers in any Court any charge by way of claim, counter-claim or otherwise in relation to any town planning services he claims to have provided as a professional town planner; or

(b) fraudulently procures or attempts to procure his registration as a professional town planner,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

(2) For the purpose of this section, the performance of a single act relating to the practice of town planning may be held to be sufficient evidence of such practice.

(3) Notwithstanding subsection (1)(a)(ii), nothing in this section shall prevent a firm of town planners or foreign firm of town planners from using the name or title containing the words "Town Planner".

(4) Any person who –

(a) wilfully fails to attend a Professional Conduct Committee after having been summoned;

(b) refuses to take an oath or make a solemn affirmation or declaration, as the case may be, before a Professional Conduct Committee;

(c) refuses without reasonable excuse to produce any record, document or article before the Professional Conduct Committee;

- (d) gives false evidence or evidence which he knows to be misleading before a Professional Conduct Committee;
- (e) obstructs the proceedings of a meeting of the Council or a Professional Conduct Committee;
- (f) molests any member of the Council or a Professional Conduct Committee in the course of, or on account of, any investigation or proceedings under this Act; or
- (g) in any other manner contravenes this Act or regulations made under this Act,

shall commit an offence.

(5) Any person who commits an offence under subsection (4) shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

45. Regulations

(1) The Minister may for the purposes of this Act make such regulations as he thinks fit.

(2) Any regulations made under subsection (1) shall be made after consultation with the Council.

(3) Any regulations made under subsection (1) may provide, inter alia –

- (a) for a Code of Practice;
- (b) for rules and guidelines for Continuous Professional Development programmes;
- (c) for the levying of fees and the taking of charges;

- (d) for the amendment of the Schedule;
- (e) for a list of bodies referred to in section 20;
- (f) for any matter required to be prescribed under this Act; and
- (g) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding 6 months.

46. Savings and transitional provisions

- (1) Every person who, on the commencement of this Act, is registered as a –
 - (a) professional member in the field of town planning with the Royal Town Planning Institute of the United Kingdom;
 - (b) town planner with such other body as may be prescribed; or
 - (c) is practising as a town and country planning officer or higher grade at the Ministry or as a planning and development officer or Head of Land Use Planning Department in a local authority in Mauritius,

shall, on the commencement of this Act, be deemed to be registered as a professional town planner under this Act and shall, on payment of such fee as may be prescribed, be issued with a certificate of registration under this Act.

- (2) (a) Notwithstanding section 7, the Minister shall, on the commencement of this Act, appoint –
 - (i) 4 town and country planning officers or officers of higher grade posted at the Ministry;
 - (ii) 3 town planning officers from the Land Use Planning Departments of local authorities, upon the recommendation of the Minister responsible for the subject of local government; and

(iii) 2 professional town planners who are in private practice,

as the initial members of the Council.

(b) The members appointed under paragraph (a) shall –

(i) elect from among themselves a Chairperson and a Vice-chairperson;

(ii) appoint a professional town planner to act as Registrar of the Council for a term not exceeding 6 months; and

(iii) hold office for a period not exceeding 6 months.

(3) The Registrar shall, within 6 months of the commencement of this Act, transmit to the Minister a list of all professional town planners who are deemed to be so registered or are so registered.

(4) Where this Act does not make provision for any transition, the Minister may make such regulations as may be necessary for such transition.

47. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.

SCHEDULE

[Section 7(1)(c)]

PROCEDURE FOR ELECTION

1. Calling for nominations and appointment of nomination day

The Registrar shall, within 5 months of the commencement of this Act and, thereafter, not less than one month before the expiry of the term of office of the members specified in sections 7(1)(c) or 46(2)(a), publish, in the Gazette and such newspaper as he may determine, a notice –

- (a) inviting the submission of nominations; and
- (b) appointing a day, time and place for the nominations to be submitted.

2. Eligibility to stand as candidate

No person shall be eligible to stand as candidate for election as a member unless, on nomination day –

- (a) he is a professional town planner; and
- (b)
 - (i) he is not subject to any investigation;
 - (ii) no disciplinary proceedings are being held against him under section 27; and
 - (iii) no disciplinary measure has been taken against him during the last 5 years preceding the nomination.

3. Procedure after nomination

Where the number of persons duly nominated exceeds the number of persons to be elected, the Registrar shall publish, in the Gazette and such newspaper as he may determine, a notice –

- (a) specifying the names of the persons duly nominated;
- (b) appointing a day, time and place, being not less than 15 days after the publication of the notice, for the holding of an election.

4. Persons entitled to vote

(1) Every person who, on nomination day, is a professional town planner shall be entitled to vote at an election of the members.

(2) Every professional town planner shall vote for such number of candidates as there are vacancies available in the membership of the Council.

5. Election

(1) The election of the members shall be conducted under the supervision of the supervising officer, or his representative, who shall submit to the Minister the results of the election forthwith.

(2) The Minister shall, within 21 days of receipt of the results of the election, cause the composition of the Council to be published in the Gazette.
