

Prelude

The object of this Bill is to provide for the establishment of an Engineering Council of Mauritius Act to replace the Registered Professional Engineers' Council Act 1966. A modern legislative framework is necessary because of new needs for suitably qualified **and experienced** Engineers serving the sustainable development of Mauritius. The Bill further aims at the promotion of Standards of Engineering Competence benchmarked on the world's best engineering practices.

Council will, in the performance of its functions, exercise **of** its powers

to: (a) Register Professional Engineers

(b) Authorise foreign Engineers qualified to levels it may specify, to practise engineering in Mauritius, subject to conditions it may impose;

(c) Publish and promote a Code of Ethics for the guidance of Professional Engineers.

(e) Investigate professional misconduct, including professional negligence, on the part of Registered Professional Engineers and take appropriate **action**.

(f) Disseminate engineering information.

(g) Promote continuous professional development (CPD) programmes.

(h) Implement a Framework for Accreditation of engineering degree programmes benchmarked on appropriate international norms.

THE ENGINEERING COUNCIL OF MAURITIUS BILL
(No.of 2012)

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A BILL

To establish an Engineering Council of Mauritius to regulate the practice of Engineering in Mauritius.

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Engineering Council of Mauritius (ECM) Act.

2. Interpretation

In this Act –

“delegated power means the power to enquire and report into allegations of professional misconduct or negligence against a public officer delegated to the Council by the Public Service Commission pursuant to section 89 (2) (b) of the Constitution.

“Accreditation”, in relation to a programme of studies in engineering, means –

- (a) The process of evaluating the academic standard of education provided by the programme, by an approved accrediting body, against a published standard, followed by confirmation that it conforms to the requirements of the published standard.
- (b) The accredited status of a programme, validated in accordance with an approved process;

“accredited” in relation to a degree or programme of studies in engineering means the academic standard delivered by the programme has been favourably evaluated through a process approved by Council or by an approved accrediting body.

“Approved accrediting body” in the context of this Act, -

- (a) Means a body, approved by Engineering Council of Mauritius (hereinafter referred to as “Council”) as having competence for undertaking the evaluation of a programme of studies in engineering.
- (b) Includes an Engineering Accreditation Board established under Section 27 of the Act.

“Authorised foreign Engineer” means –

A person, other than a citizen of Mauritius, who has been authorised by Council to practise Engineering in Mauritius under section 25, excluding a resident non-citizen registered under Section 19 of the Act.

“Certificate of Authorisation to practice” means an authorisation granted pursuant to Section 26(7), and includes any authorisation to practice issued under the **Council of Registered Professional Engineers Act 1965**;

“Code of Ethics” means such Code of Ethics that Council may prescribe under this Act

“Continuous Professional Development (CPD) Programmes” in relation to this act, means an aggregate of educational programmes, events and activities of educational value aimed at improving the know-how of Registered Professional Engineers

“Council” or “Engineering Council” means the Engineering Council of Mauritius established under section 3, and shall, for the purposes of Section **6.1(a)**, include Council established under the Registered Professional Engineers Council Act (1966).

“Engineer” means a person registered pursuant to Section 19 **and Section 25** of this Act, and includes

a Registered Professional Engineer, registered with **Council of Registered Professional Engineers** prior to implementation of this Act,

“Financial year” has the same meaning as in the Finance and Audit Act.

“Foreign Engineer” –

- (a) means a non-citizen of Mauritius, holding qualifications of an academic standard substantially equivalent to that prescribed for practice of engineering under the Act, and authorised by the competent authority, including a relevant professional engineering institution in his country, to practise Engineering in that country; and
- (b) does not include a non-citizen who is a resident in Mauritius and is registered as a Registered Professional Engineer.

NOTE: SLO TO CLARIFY

“Institution of Engineers Mauritius” means the body registered with the Registrar of Association under that name.

“Joint venture agreement”, in relation to this act, means an agreement between local Professional Engineers or local firms of Engineers, and foreign Engineers or firms of

Engineers. “Licensed Auditor” has the same meaning as in the Financial

Reporting Act. “Member” means a member of Council, unless the context

suggests otherwise.

“Minister” means the Minister to whom responsibility for Public Infrastructure is assigned.

“Practice of engineering” means the performance of any act, which requires the application of engineering principles, ~~as prescribed by Council~~ and includes, inter alia, conducting of engineering investigations, evaluating, planning, designing and the approval of engineering designs; directing and/or supervising of the construction, production, maintenance and operation of the engineering works and systems; advising, reporting and intervening on the design, reliability, safety and environmental aspects of the engineering works and systems; ~~including for the purpose of safeguarding of the safety of life,~~

~~property, welfare and the environment.~~ This excludes any engineering service provided in accordance with a prescriptive standard.

“Prescriptive standard”, for the purpose of this Act, means a documented procedure or process for guidance in the implementation of an activity related to engineering

“Professional Engineer” means a person registered as such under **sections 19 and 25**,

“Professional Conduct Committee”, in relation to this act, means a Professional Conduct Committee set up by council under section 33.

“professional misconduct” in relation to a person registered under this act, or under training for his eventual registration, means any manner of behavioural or professional conduct on his part, which is contrary to Council’s standard of conduct.

“Standard of Professional Engineering Competence”, in relation to this act, means the standard referred to in Section 19.

“Registrar” means the Registrar of Council, appointed under section 12.

“Resident” has the same meaning as in the Immigration Act.

Roll of Engineers means the list of Registered Professional Engineers compiled under Section 23 of the Act.

“Chairperson” and “Vice-Chairperson” means **“Chairperson” and Vice-Chairperson of Council.**

PART II – THE COUNCIL

3. Establishment of Council

- (a) There is established, for the purposes of this Act, the **Engineering Council**.
- (b) The principal place of business of Council shall be as it may determine. **(SLO)**

4. Objects and functions of Council

Council shall –

- (1) Be responsible for registering **Professional Engineer**
- (3) Authorise suitably qualified foreign Engineers to practise engineering in Mauritius;
- (4) Disseminate engineering information;
- (5) Publish guidance material for the benefit of aspiring Engineers in relation to an eventual registration;
- (6) **Approve** Continuous Professional Development (CPD) programmes for Engineers;
- (7) Maintain **a Register** of RPEM, and compile **the Roll** for publication;
- (8) Keep a record of its proceedings and decisions;
- (9) Provide guidance to engineering trainees and students;
- (10) Approve or recognise accredited engineering degree programmes and qualifications, or otherwise, for the purposes of Section 19 of this Act;
- (11) Suspend, withdraw or cancel any approval, recognition or accreditation that it may have granted; (12) Confirm the competence of accrediting bodies for engineering degree programmes and publish their names on its website and/or any other media it may deem appropriate;
- (13) **Set up** a framework for accreditation of engineering degrees;
- (14) Enter into agreements including Mutual Recognition Agreements with foreign **engineering bodie**
- (16) **Purchase, sell** or exchange any property;
- (17) make or receive any grant or donation; (18) Borrow money and raise funds;
- (19) Collect or receive any fee, rental, interest or any other monies which may lawfully accrue to it;
- (20) Advise on any matter relating to the practice of engineering.
- (21) Generally do such acts and things as may be necessary for the purposes of this Act;

5. Powers of Council

Council shall have such powers as may be necessary to discharge its objects and functions.

PART III – MANAGEMENT OF COUNCIL

6 Composition of Council

1. Subject to subsections (5) and (8) Council shall include :-

- (1) 4 members, who shall be selected through free election by the **Engineering Council of Mauritius**, according to the following classification:
 - (a) 1 member from the civil and **related engineering fields**;
 - (b) 1 member from the mechanical and **related engineering fields**;
 - (c) 1 member from the electrical and **related engineering fields**;
 - (d) 1 member from the chemical and **any other field not specified above**;
- (2) 2 members **nominated by** the Institution of Engineers Mauritius
- (3) 2 members nominated by the Ministry responsible for matters of public infrastructure;
- (4) 1 member nominated by **the Ministry responsible for matters of energy and public utilities**
- (5) 1 member nominated by **the Mauritius Employers Federation**

2. All members nominated to serve on the Council shall be Registered Professional Engineers having been on the Council's Roll of Engineers for at least 5 years.

3. **"Related Engineering fields"** will be **determined** by Council

- (1) The method to be adopted for conduct of the election shall be as per **First Schedule**, entitled "procedure for election"
- (2) The conditions for acceptance of the nomination of a member for election on Council shall be stipulated by Council.
- (3) Council shall elect a Chairperson and a Vice-Chairperson from among its members.
- (4) A member shall **not** hold office for **more than 2 consecutive terms** and shall be eligible for re-election.
- (5) **Six members shall constitute a Quorum. In the absence of both Chairperson and Vice-Chairperson, the members shall elect a Chairperson to conduct the meeting among themselves.**
- (6) Every member shall be paid fees or allowances **as may be determined by** Council.

7. Vacancy in membership of Council

- (1) A member shall cease to hold office –
 - (a) On completion of his term of office; or
 - (b) On his resignation, by giving notice in writing to the Registrar.
- (2) Council may remove from office, any member who-
 - (a) is absent without leave, ~~from~~ **for** 3 consecutive meetings of Council;
 - (b) commits an act of gross professional misconduct;
 - (c) is convicted of a criminal offence;
 - (d) is deregistered as a Professional Engineer under this Act;
 - (e) is suffering from mental impairment;
 - (f) fails to disclose any pecuniary or any other interest which he has in relation to any matter before Council.
- (3) 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-(2);
 - (b) Guilty of a breach of the Code of Ethics; or
 - (c) The subject of an investigation.
- (4) **Where a vacancy occurs from among the elected members, he shall be replaced by the member coming next on the result list in his respective discipline.**

8. Meetings of Council

- (1) Council shall meet as often as **is** necessary but at least once **monthly**.

9. Assessment Panels

(1) Council shall set up Assessment Panels to assist it in the determination of applications for registration under this Act;

(2) Subject to subsection (3) and (4), and on such terms and conditions as Council may determine, the Council shall determine the composition of the Assessment Panels;

(3) The assessors referred to in subsection (2) shall be Registered Professional Engineers selected from a list drawn up by Council;

(4) Assessment procedures and guidelines shall be as stipulated by Council.

10. Committees

(1) Council may set up such committees as may be necessary to assist it in the discharge of its functions.

(2) The members of any committee shall be selected by Council. The mode of operation and objectives shall be specified by Council. The place and time of the meetings shall be decided by committee members. (SLO)

11. Disclosure of interest

(1) Where any member, or any person related to him by blood or marriage (SLO), has a pecuniary or other material interest in relation to any matter before a meeting of Council, an Assessment Panel or a committee, that member

(a) Shall disclose the nature of the interest.

(b) Shall leave the meeting during the deliberations of that matter.

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

(3) If following the abstention of a Chairperson or a member on grounds of conflict of interest, quorum is lost, the proceedings shall be postponed pending Council decision with regard to that matter.

12. Registrar

(1) Council shall appoint, on such terms and conditions as it may determine, a Registered Professional Engineer to act as Registrar.

(2) The Registrar shall be responsible for the day to day administration of Council;

(3) The Registrar shall act as Secretary to Council. He

(a) Shall give notice of every meeting of Council;

(b) Shall prepare the Agenda and attend every meeting of Council;

(c) Shall keep minutes of proceedings;

(d) May take part in the deliberations, but shall not have the right to vote.

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

(5) The Registrar shall have such other functions as may be conferred upon him by Council.

(6) Where the Registrar is, for any reason, unable to perform his functions, Council may appoint another Registered Professional Engineer to act as Registrar.

13. Delegation

Council may, subject to specific instructions, delegate to the Registrar such powers as may be necessary for the effective management of the day-to-day business and activities of Council.

14. Appointment of officers

(1) Council may appoint, on such terms and conditions as it may determine, 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.

15. Conditions of service of officers

Council shall determine the conditions of service of its officers.

16. Protection from liability

No liability, civil or criminal, shall be incurred by Council, any member or officer, including members of any Panel or Committee established under this Act, in respect of any act done or omitted to be done by Council, Panel or Committee or any of its members, in good faith, in the discharge of its or his functions, or exercise of its or his powers, under this Act or any regulations made under it.

17. Prerogative of Minister

The Minister may request Council to furnish any information in relation to its activities.

PART IV – REGISTERED PROFESSIONAL ENGINEER

18. Practice of Engineering

18.1 No person shall engage in the practice of Engineering in Mauritius unless he –

- (a) is a Registered Professional Engineer; or
- (b) holds an Authorisation to Practice Engineering, delivered by Council.

18.2 Nothing in this Act shall prevent or be deemed to prevent– **(NOTE – 18.2 TO BE DISCUSSED WITH SLO)**

- (a) any person from practising a profession, other than engineering.
- (b) any person from operating, executing or supervising any works as owner, contractor, superintendent, foreman, inspector or master;
- (c) any person from practising his profession under the appellation “Consultant” in engineering or engineering technology, provided that person shall not provide any service or perform any act deemed to be practice of engineering.
- (d) any person from working as an employee or subordinate of a Registered Professional Engineer, where such work does not include final engineering designs or decisions and is done under the direct responsibility and supervision of a Registered Professional Engineer.
- (e) (i) Subject to sub-paragraph (ii) any person from carrying out an engineering activity, including construction or production in connection with engineering works and systems, in compliance with a prescriptive standard.
(ii) Where the engineering works and systems referred to in sub-paragraph (i) are part of a public utility or privately owned utility accessible to the public, that activity shall be carried out by, or under the supervision of either a Registered Professional Engineer or one holding an Authorisation to Practice Engineering delivered under this Act.

19. Registration of Professional Engineer

19.1 Any person seeking registration as a Registered Professional Engineer shall satisfy Council that –

- (a) (i) He is a citizen or resident of Mauritius.
(ii) He has attained the age of 21; and
(iii) He is of good character.
- (b) He holds a degree in Engineering, after full-time studies of a duration of not less than Four years, from a University or other institution which is recognised by the competent authority of the country where the degree is obtained, or any other equivalent acceptable qualification.
- (c) He satisfies the Council, during a Professional Review (Technical report and Interview) that he has had at least 24 months of satisfactory training post graduation, under the supervision of a Registered Professional Engineer with *at least four years experience post registration holding registration in the same field or allied to it.*
- (d) Pays such registration fee as may be **determined by Council.**

19.2 No person shall be registered under this Act if he

- (i) is known to have been previously convicted for a criminal offence **of a serious nature** ; or
- (ii) has been disqualified or de-registered from practising Engineering, in any country, on grounds of Professional misconduct; or
- (iii) suffers from any mental impairment which is likely to hamper the discharge of his duties.

19.3 The requirements for registration as a Registered Professional Engineer under this Act shall be

as prescribed by Council and shall be deemed to be satisfied by any applicant

- (i) who was already registered as a Registered Professional Engineer under the Registered Professional Engineers Council Act (1966), and whose name was not removed from the Register on grounds permitted under sub-section (d) as at the effective date of this Act; or
- (ii) who holds a valid registration as Chartered Engineer, Professional Engineer, or other equivalent status with a professional engineering association in a foreign country, subject to Council being satisfied that ~~such~~ status was conferred to the Applicant on the basis of academic qualifications and experience of at least similar standard, extent and nature to those accepted by Council.
- (iii) Any Registered Professional Engineer may use the title "RPEM" after his name on letterheads, visiting cards and other media.

19.4 (a) Subject to sub-clause 19.2, a person who wishes to be registered as a Professional Engineer under Section 19, shall make an application to the Registrar in such form and manner as Council may determine.

19.5 Any registered Professional Engineer who wishes to renew his professional licence should submit evidence of having followed CPD courses to a level as defined by Council.

- (b) An application made under paragraph (a) shall be accompanied by such documents as prescribed by Council.

20 Registers

The Registrar shall keep a register of Registered Professional Engineers and such other registers as may be necessary, in such form and manner ~~and with such data~~ as Council may determine.

21 Annual fee

- (1) Subject to sub-section (2), every Registered Professional Engineer shall, on or before 31 December of every year, pay to the Registrar such annual fee as may be ~~prescribed~~ **determined by Council**, in respect of the following year, if he intends to engage in the practice of engineering during that year.
- (2) Council shall act according to its own published rules, on its website or elsewhere, in regards to the amount and payment of annual fees, penalties for late payment or for reinstatement on the **Annual Roll of Engineers** or for any other matter regarding payment. **(TO SIMPLIFY)**

23. Annual list

Council shall, not later than the end of March of every year, cause to be published in the Gazette, the Roll of Registered Professional Engineers for that year.

24. Enrolment of Trainee Engineers

- (1) Any person who is enrolled or employed as a Trainee Engineer with the intention of eventually applying for registration, does so at a risk of being refused, if he does not hold an eligibility certificate issued by Council.
- (2) Applicants holding an eligibility certificate and who have been enrolled or employed as Trainee Engineers shall endeavour to undergo training or work experience in accordance with guidelines that Council may issue thereon.
- (3) Applicants shall demonstrate having undertaken a minimum of two years full-time supervised engineering training with registered professional engineer/s, to the satisfaction of Council, prior to applying for registration as a Registered Professional Engineer.

PART V – FOREIGN ENGINEER

25. Foreign Engineer

No foreign Engineer shall be authorised to practise Engineering in Mauritius unless he has been issued with a Certificate of Authorisation to Practise Engineering by ~~the~~ Council

26. Foreign Engineer practising Engineering in Mauritius

- (1) Any person other than a citizen of Mauritius may be authorised to practise Engineering provided

- (i) He is not disqualified pursuant to Section 19(2)
 - (ii) The agreement under which his services are required, stipulates his area of responsibility for engineering services, and includes an unambiguous statement in respect of any liability to his employer or other parties that can legally arise from any of his acts in the course of his professional practice.
- (2) Where a foreign Engineer wishes to be authorised to practise Engineering under this section, he shall make an application in conformity with Section 19, or in compliance with such alternative directives as may be issued by Council for such purposes.
 - (3) An application made under subsection (2) shall be accompanied by such documentary evidence as Council shall stipulate and publish.
 - ~~(4)~~ (i) Subject to sub-section (ii), where Council deems that applicant has complied with the requirements specified in subsections (1) and (3), Council may grant the application.
(ii) Where Council considers that an Assessment of the Applicant is necessary, it shall make the necessary arrangements **for the setting up of** an assessment panel **to consider the application.**
 - (5) Council shall notify the applicant of the outcome of his application **within 14 days.**
 - (6) When the applicant is notified that his application has been granted, he shall, within 21 days, submit certified details of his engagement and pay the applicable fee to Council for the issue of a certificate of authorisation to practise engineering. The validity period of the certificate of authorisation to practise engineering shall be **defined determined** by Council.

PART VI Accreditation

27. Establishment of an Engineering Programmes Accreditation Committee (DISCUSSIONS – WHETHER ACCREDITATION COMMITTEE UNDER CRPE, TEC OR AN INDEPENDENT BODY?)

- (1) Council shall establish an Engineering Accreditation Committee, herein referred to as “the Committee”.
- (2) The Committee shall be constituted and shall function in accordance with the provisions of Schedule
- (3) The Committee shall undertake, upon request from any tertiary educational organisation, the accreditation of programmes of studies in engineering. The objective of the exercise will be to determine whether the proposed programmes conform to the Standard of Professional Engineering Competence prescribed by Council for eventual registration of graduates from those programmes.

28 Accreditation by Committee on request only

- 28.1 (i) Subject to sub-section 28.1(ii), nothing in this Act or its Schedules shall be construed as compelling any educational establishment to seek accreditation of its programme of studies by Council, or restricting it from seeking accreditation from any other organisation.
(ii) In the course of investigations for registration of an applicant, Council may scrutinise accreditation by an alternative body not previously recognised by Council.
- 28.2 Council shall, on the recommendation of the Committee following satisfactory completion of any accreditation process ,
- (i) grant accreditation for such period not exceeding 4 years as it may approve, subject to such conditions it may stipulate, or
 - (ii) deny accreditation.

29 Board Appeal against Council’s Decision

- (a) Any appeal by an educational institution to Council shall comply with the provisions in Schedule 2.
- (b) Council shall, upon receipt of a Notice of Appeal under paragraph (a), set a date or dates for hearing the appeal and shall communicate its decision within 45 days of the last day of the hearing.
- (c) Any expenses to be incurred in relation to an appeal under this sub-Section shall be borne by the Educational Institution.

PART VIII – DISCIPLINE

TO BE ALIGNED WITH OTHER COUNCILS

31. Preliminary investigation TO BE DISCUSSED WITH SLO

- (1) Council may investigate any complaint of –
 - (i) in relation to public officers, in respect of whom it holds a delegated power, to the extent and within the limits of that delegation of power.
 - (a) Professional misconduct;
 - (b) Fraud or dishonesty;
 - (c) a breach of the Code of Practice,
 - (d) Professional negligence
- (2) Where Council investigates a complaint under subsection (1), it –
 - (a) Shall notify the Engineer, under investigation, of the nature of the complaint against him;
 - (b) May summon and hear the Engineer who shall have the right of assistance by a legal representative;
 - (c) May summon and hear witnesses; and
 - (d) May call for any relevant documents.
- (3) Council investigating a complaint under subsection (1) shall keep proper record of its proceedings.
- (4) Where, in the course of an investigation, any person refuses to produce any document on the ground of confidentiality, the Council may apply to a Judge in Chambers to order satisfaction of Council's directive.
- (5) Council may, for the purpose of an investigation under subsection (1) appoint a committee consisting of not less than 3 members.

32. Disciplinary proceedings

- (1) Where, after an investigation has been carried out under section 31, Council considers it necessary to press charges against an Engineer, it shall forward to the Engineer a statement of those charges and call upon him to state in writing, before a date to be specified by the Council, any grounds on which he relies to exculpate himself.
- (2) Where the Engineer 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, Council may, subject to section 36, call him before a Professional Conduct Committee.

33. Professional Conduct Committee

- (1) Council may, for the purpose of section 31, set up a Professional Conduct Committee which shall consist of –
 - (a) a, Chairperson who is a Registered Professional Engineer with at least 15 years of experience; and
 - (b) 2 assessors, who shall be Registered Professional Engineers of not less than 10 years' experience and who are not members of Council.
- (2) The Chairperson and assessors shall be appointed by the Council on such terms and conditions as Council may determine.
 - (a) The members of the professional conduct committee shall disclose any relationship they may have with any engineer under investigation. The committee shall decide whether any of its members disclosing a relationship should be replaced according to requirements for membership of the committee.
 - (b) Any disclosure made under paragraph (a) shall be recorded in the minutes of proceedings

34. Proceedings of Professional Conduct Committee

- (1) A Professional Conduct Committee shall meet at such time and place as the President Chairperson thinks fit.
- (2) A Professional Conduct Committee may summon any person to appear before it to give evidence or produce any document;
- (3) Where, in the course of any disciplinary proceedings, a person refuses to produce any document on the ground of confidentiality, the Council .may apply to a Judge in Chambers to order submission to council's directive.

35. Disciplinary measures

- (1) Council shall prescribe the format of any report expected from the disciplinary committee.
Extracted from Professional Architect Council
- (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 findings;
 - (b) details of any matter which, in the Professional Conduct Committee's opinion, 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) A 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 engineer, other than a professional engineer 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 reprimand or a severe reprimand;
 - (ii) suspend him from practising engineering for a period not exceeding 2 years; or
 - (iii) deregister him from practising engineering.(b) where the report is in relation to an authorized foreign engineer and states that the charge has been proved, the Council may revoke his authorization or take such appropriate disciplinary measure as it may determine.
(c) where the report is in relation to a professional architect 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 punishment inflicted by the Public Service Commission on a professional engineer, 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 the professional engineer shall be suspended or deregistered from practicing architecture.
 - (2) Where the charge has been proved, Council shall decide the form of disciplinary measure to be applied.
 - (3) A decision of Council under subsection (2) shall be communicated to the Engineer not later than 14 days from the date of the decision.

36. Other disciplinary measures

- (1) Where an Engineer has been convicted of a criminal offence, Council shall de-register him or cancel its authorisation to the Engineer to practice engineering in Mauritius.
- (2) The Registrar shall cause any de-registration under this Act to be published in the Gazette as well as on its website.

37. Restoration of name and other particulars to register SLO

Where the name and other particulars of a Professional Engineer have been removed from the register of Professional Engineers in accordance with this Act, the name and other particulars of that person shall not be restored except by order of Council, the Intermediate Court or the Supreme Court as may be.

PART IX – FINANCIAL PROVISIONS AND ACCOUNTS

38. General Fund

Council shall set up a General Fund –

- (a) into which shall be paid –
 - (i) any grant, donation and contribution received;
 - (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 Council shall be effected.

39. Execution of documents

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

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

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

(b) the Registrar.

40. Donation

Article 910 of the “Code Civil Mauricien” shall apply to Council. (TO CHECK)

41. Audit

Council shall keep proper accounts of all sums received and paid.
The accounts for each financial year shall be audited by a licensed auditor appointed by Council.

PART VIII – MISCELLANEOUS

42. Seal of Council

Council shall have a seal which shall bear such logo as may be approved by Council.

43. Legal proceedings

Council shall act, sue and be sued in its corporate name through its Chairperson.

44. Confidentiality

- (1) No member 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 purposes of administering this Act.
- (2) Any person who, without lawful excuse, contravenes subsection (1) shall commit an offence and shall, be liable to: disciplinary action by Council.

45. Appeal against decision of Council

A person who feels aggrieved by a decision of Council –

- (a) not to register him as a Registered Professional Engineer;
- (b) not to issue him with a Certificate of Authorisation to practice engineering or
- (c) to take any disciplinary measure against him,

may apply for a judicial review of the decision before the Supreme Court within 21 days of the date of communication of the decision.

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

46. Offences

- (a) Any person, other than a Registered Professional Engineer, who –
 - (i) practises Engineering at professional level;
 - (ii) takes or uses the name, description or title “Registered Engineer”, “Professional Engineer”, “Authorised Foreign Engineer”, “Consulting Engineer”, “Qualified Engineer” or “Engineer”, or any abbreviation thereof in whatever language, either alone or in connection with any other title, name, words or letters;
 - (iii) holds himself out or conducts himself as a Registered Professional Engineer;
 - (iv) by any wilful act or omission, causes or induces any person to believe that he is an Engineer; or
 - (v) demands, sues for or recovers in any Court any charge by way of claim, counter-claim or otherwise in relation to any Engineering services he has provided as an Engineer, shall commit an offence.
- (b) For the purpose of this section, the performance of a single act relating to the practice of Engineering may be held to be sufficient evidence of such practice.
- (c) Notwithstanding subsection (1) (a) (ii), nothing in this section shall prevent –
 - (i) the use by a person of the designation “Naval Engineer”, “Marine Engineer”, and “Licensed Aircraft Maintenance Engineer” where the use of such titles are authorised by the Director of Shipping or Director of Civil Aviation in

accordance with national legislation or international practice as may be the case.

- (ii) Any organisation from using the name or title containing the word “Engineer” or “Engineering”, provided responsibility for the provision of engineering services lies with Registered Professional Engineers employed by that organisation.

(d) A Registered Professional Engineer who practises Engineering–

- (i) whilst being suspended from practising Engineering; or
- (ii) whilst being de-registered from practising Engineering; or shall commit an offence.

(e) A foreign Engineer who practises Engineering where his authorisation to practise Engineering under section 25 has expired or has been revoked shall commit an offence.

SECTION (f) TO DECIDE TOO MUCH AMBIGUITY

(f) Any person who –

- (i) fails to attend a Professional Conduct Committee after having been summoned;
- (ii) refuses, without reasonable excuse, to produce any document before the Professional Conduct Committee;
- (iii) gives false evidence which he knows to be misleading before a Professional Conduct Committee;
- (iv) at any sitting of a Professional Conduct Committee –
 - (A) insults a member of the Committee; or
 - (B) wilfully interrupts the proceedings or commits any other contempt of the Committee;
- (v) fraudulently procures or attempts to procure his registration as a Registered Professional Engineer;
- (vi) obstructs the proceedings of a meeting of the Council or Professional Conduct Committee;
- (vii) molests any member of Council or a Professional Conduct Committee in the course of, or on account of, any investigation or proceedings under this Act;
- (viii) in any other manner contravenes this Act;
- (ix) contravenes any regulations made under this Act,
- (x) employs a person not holding a valid registration as Professional Engineer in a capacity where he is required to undertake practice of engineering,

shall commit an offence.

Any person who commits an offence under this Act shall, on conviction, where no specific penalty is provided, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 12 months. **(SLO TO ADVISE AND TO REFER TO S 19 OF REPEALED CRPE ACT).**

47. Regulations

(1) The Minister may, for the purposes of this Act, and after consultation with the Council, make such regulations as he thinks fit.

(2) Any regulations made under subsection (1) may provide –

- (a) For rules and guidelines for professional assessment through Continuous Professional Development programmes; (to clarify)
- (c) For the amendment of the Schedule.

Any person who contravenes any regulation 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. **(SLO TO ADVISE).**

48. Repeal

The Registered Professional Engineers Council Act is repealed.

49. Consequential amendments

To be proposed by SLO

50. Transitional provisions

- (1) Every person registered as a Registered Professional Engineer under the repealed Act shall, at the commencement of this Act, be deemed to be registered as a Registered Professional Engineer under this Act and shall be authorised to continue designating himself as Registered Professional Engineer and utilise the abbreviation R.P.E.M after his name.
- (2) The Registrar shall enter in the register of Professional Engineers the name, address, qualification and other particulars of every Registered Professional Engineer whose name, address, qualification and other particulars appear on the register of Professional Engineers kept under the repealed Act.
- (3) Every person who, at the commencement of this Act, is a member of Council under the repealed Act shall continue in office until the first composition of Council under this Act.
- (4) The first composition of the Council shall be conducted in the manner specified in Section 6 of the Act.
- (5) The Registrar and any other staff appointed under the repealed Act shall continue in office under this Act.
- (6) Any foreign Engineer who, at the commencement of this Act, is providing Engineering services in relation to a project, and any person to whom a Certificate of Authorisation to Practise Engineering has been issued under the Repealed Act may continue to do so.
- (7) The assets and funds of Council under the repealed Act shall, at the commencement of this Act, be vested in the new Council.
- (8) Any act or thing done by Council under the repealed Act shall, at the commencement of this Act, be deemed to have been done by the new Council.
- (9) All proceedings, judicial or otherwise, commenced before and pending at the commencement of this Act, by or against Council under the repealed Act, shall be deemed to have been commenced, and may be continued, by or against the new Council.
- (10) Where this Act does not make provision for any transition, the Minister may, after consultation with Council, make such regulations as may be necessary for such transition.
- (11) Any on-going engineering degree programme which have been recognised or deemed accredited and meeting the academic requirement for an eventual registration on the date of coming in force of this Act shall be deemed to be an approved qualification under the present Act for a period not exceeding 4 years, after which its recognition or accreditation will lapse unless renewed, unless evidence is submitted to the effect that the programme has been accredited for the purposes of Section 19 by an approved accrediting body.

51. Commencement

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

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

SCHEDULE 1
[Sections 6 and 7]

PROCEDURE FOR ELECTION

1. Calling for nominations and appointment of nomination day

Within 2 months of the coming into operation of this Act and, thereafter, not less than 2 month before the expiry of the term of office of the members specified in section 6, the Registrar shall publish, in the *Gazette* and such media as he thinks fit, a notice –

- (a) inviting the submission of nominations; and
- (b) appointing a day, time and place for the nominations to be submitted.
- (c) Informing the potential applicant to nomination that the latter will be restricted to the engineering sector in which he is registered or to which his engineering specialisation is associated.

2. Eligibility to stand as candidate

No person shall be eligible to stand as candidate for election as a member of the Council unless, on nomination day, he is a Registered Professional Engineer and his name is on the current Roll of Engineers.

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 media as he thinks fit, a notice –

- (a) specifying the names of the persons duly nominated;
- (b) appointing a day, time and place, being not less than 14 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 Registered Professional Engineer whose name is on the current Roll of Engineers, shall be entitled to vote for the election of the members of Council.
- (2) Every Registered Professional Engineer shall vote for such number of candidates as there are vacancies available in the membership of the Council, in satisfaction of classification rules for membership.

5. Election

- (1) The election of the members shall be conducted under the supervision of the Registrar or his representative.
- (2) The Registrar shall forthwith submit to the Minister the results of the election.
- (3) The Minister shall, within 21 days of receipt of the results of the election, publish in the *Gazette* the composition of Council.

SCHEDULE 2

[Section 27]

The Engineering Programme Accreditation Committee

1. Establishment of the Engineering Programme Accreditation Committee

1. Section 27.1 of the Act provides that Council shall establish an Engineering Programme Accreditation Committee.

2. Composition of the Engineering Programmes Accreditation Committee.

2.1 The Committee shall comprise 11 members, appointed as follows:

- (a) Subject to subparagraph 2.1(c), five (5) members appointed by Council as follows: (i)
 - (i) A Chairperson of the Committee appointed, in consultation with the Chairperson of Council, from among Registered Engineers reckoning at least 15 years post registration experience.
 - (ii) **The Director, Tertiary Education Commission**
 - (iii) The Director, Mauritius Research Council
 - (iv) The Chairperson of IEM
 - (v) One person having held the office of Dean or Head of the Faculty of Engineering in a tertiary educational establishment, subject to his not having any contractual obligations towards any tertiary educational establishment in Mauritius,
- (b) Subject to subparagraph 2.1(d) and 2.2, Council shall appoint six (6) registered engineers with a minimum of 10 years post registration experience, one for each of the following groups of engineering disciplines:
 - Group A: Electrical, Electronic, Instrumentation and Control, or an allied engineering discipline.
 - Group B: Mechanical, Industrial, Production, Manufacturing, Mechatronics, or an allied engineering discipline.
 - Group C: Civil, Geotechnical, Structural, or an allied engineering discipline.
 - Group D: Telecommunications, Radio Communications, or an allied engineering discipline.
 - Group E: Chemical, Environmental, or an allied engineering discipline.
 - Group F: Computer Engineering, Management Information Systems Engineering, or an allied engineering discipline.
- (c) (i) Subject to sub-paragraph (ii) and (iii), the 6 members at sub-paragraph 2.1 (b) shall be selected by Council from among registered engineers favourably responding to Council's invitation to show interest to serve the Committee.

- 2.2 Council may, when a lack of local expertise is recognised for undertaking a specific accreditation exercise, enlist one or more Specialists with the relevant professional competence for inclusion within the Accreditation Team constituted for the purpose.
- 2.3 (i) Subject to 2.3 (ii) to (v), the term of office of the Committee shall be 3 years.
- (ii) Any member, other than an ex officio member, shall be eligible for reappointment.
- (iii) Council may, at any time and on request of the Committee, terminate the appointment of a member, if the continued involvement of that member does not serve the interests of the Committee, without any claim or liability.
- (iv) Any vacancy on the Committee shall be filled by decision of Council.

3. Administration of the Committee

- (a) The Chairperson and members of the Committee shall be paid a fee for their services to Council.

- (b) the Council shall appoint any administrative personnel required by Committee.

- (c) The Committee shall meet at such place and time its Chairperson may decide.

- (d) Seven (7) persons shall constitute a quorum for any meeting of the Committee.
- (e) The Committee shall submit its yearly budget requirements to Council at least three months prior to next financial year.

4. Obligations of the Committee

- 4.1 In accordance with Section 21.1(4) of the Act, an approved accreditation body shall be autonomous in matters of accreditation, for which purpose it shall, in the conduct of its activities, be guided by the following considerations:
 - (i) it shall not be accountable to any professional body, or special interest group, or Higher educational authorities, for any of its decision in matters of accreditation of an engineering degree programme for the purposes of Section 19(1)(b), except that it may be under obligation to explain its decisions before the Council or a Court in Mauritius, in the course of an Appeal proceedings initiated by an educational establishment under this Act.

4.2

- (a) Council shall publish and operate a clear and explicit policy of no-conflict of interest in matters of accreditation of any programme of study, to which the Committee shall strictly adhere, and shall also ensure that every person associated with an accreditation assignment, either at the level of the management of the accrediting body or its Accreditation Team or any Review panel, do so.
- (b) the Committee shall operate a clear and transparent policy on selection, appointment and training of persons who shall form part of any accreditation or evaluation panel, with the view to ensure that any person engaged in an accreditation assignment, or deciding on accreditation or reviewing recommendations and decisions relating thereto: -
 - (i) has an academic and professional competence necessary for the purpose, and
 - (ii) is given adequate briefing and training that may be necessary for undertaking the specific accreditation assignment, and
 - (iii) has access to information on engineering education generally and specifically on Council's Standards of Professional Engineering Competence, including the criteria for accreditation and recognition.
- (c) Council shall operate and maintain an internet website accessible to the public and publish thereon any Report on the activities of the Committee, including a list of programmes accredited and recognized, and shall invite and welcome comments including criticisms of its operations.

5. Tertiary Educational Establishment under no obligations to seek accreditation from the Committee.

- (1) Any educational establishment delivering engineering degree programmes, intended for entry into the practice of engineering, may apply to Council for accreditation of its programmes against Council's relevant Standard, subject to the establishment being registered with the Tertiary Education Commission.
- (2) (i) An agreement in the form of a Memorandum of Understanding shall be concluded between Council and the Tertiary Educational Establishment concerning an accreditation assignment that both parties have agreed to and it shall stipulate the responsibilities and obligations of either party in the accreditation process, including responsibilities and obligations towards maintaining the quality and standard of the programme during the validity period of the accreditation, all of which shall form part of the Accreditation Procedures.

(ii) The Committee shall, in the event of its inability to undertake the accreditation of any specific engineering degree programme shall advise Council of the reason of its decision and Council shall take appropriate action as per **Regulation 2.2 above.**

(3) (i) Nothing in this Act shall be construed as preventing Council from suspending or cancelling any accreditation it may have granted to a programme of studies in engineering pursuant to the failure of the establishment delivering the programme to satisfactorily address any shortcoming identified by the Committee Accreditation Team, or for non-compliance with guidelines issued by Council.

(ii) Any suspension or cancellation of accreditation by Council, or withdrawal of recognition of a programme of studies and its associated qualification by Council pursuant to Committee Accreditation's action under **sub-paragraph 3(i)** shall not affect the validity of any registration granted to an applicant already registered with Council.

6. The Accreditation Process

(a) Council shall publish a Manual of Accreditation for Engineering Programmes which shall contain the Accreditation Procedures for the information and guidance of, and compliance by the Committee Accreditation Teams, and generally for information of educational establishments wishing to apply for accreditation of their engineering programmes by Council.

(b) **Council shall when developing the Accreditation Procedures, for the purposes of paragraph (a), give due consideration to the parameters and criteria set out in Schedule -5 (Accreditation Procedures).**

7. Outcome of Accreditation Assignment

(a) Council may, after taking cognizance of the Report of an Accreditation Team on an accreditation assignment undertaken by the Team, seek such additional information as it deems necessary, and after consultation with the management of the educational establishment whose programme of studies was subject to the accreditation process, determine whether: -

- (i) to grant accreditation for a period not **exceeding 4 years**, or such longer period as Council may decide, subject to the educational establishment agreeing to implement a mechanism for periodic audit and review over the agreed longer period, or
- (ii) to grant Provisional Accreditation for a period not exceeding 1 year, subject to the educational establishment undertaking a commitment to implement recommendations made by the Accreditation Team, and agreeing to undergo a further review by Council as soon as practicable after notification by the establishment that the measures have been implemented, or
- (iii) not to grant accreditation.

(b) Council shall take such decision as it deems appropriate and inform the Educational Establishment accordingly.

8. Request for re-validation of Accreditation.

Council may, upon receiving a request from an educational establishment for revalidation of the accreditation of an engineering degree programme which has

expired, and subject to such terms and conditions as may be agreed between Council and the Educational Establishment -

- (i) revalidate the accreditation subject to the programme of studies conforming to Council's Standard, or
- (ii) initiate procedures for a fresh accreditation exercise in relation to that programme.

9. Appeal Against Decision of Council

- (a) Any educational establishment aggrieved by the decision of Council may, within 30 days of the date of communication by Council of that decision to its business address, serve a Notice of Appeal to Council against that decision setting out its grounds for appeal.
- (b) The appeal shall be heard by Council in accordance with the provisions in the Act relating to appeals against decision of Council.
- (c)(i) Subject to sub-paragraph (ii), the educational establishment shall, as part of the appeal proceedings, make such arrangements, including access to its premises, for the members of the Appeal Board that may be constituted to hear and consider the Appeal.
- (ii) Any expenses to be incurred in relation to an appeal under this sub-Section shall be borne by the educational establishment.

10. Powers of the Minister

The Minister may make regulations to amend this Schedule.