



# LAWS OF MALAYSIA

REPRINT

**Act 138**

## **REGISTRATION OF ENGINEERS ACT 1967**

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## REGISTRATION OF ENGINEERS ACT 1967

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# LAWS OF MALAYSIA

## Act 138

### REGISTRATION OF ENGINEERS ACT 1967

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**LAWS OF MALAYSIA****Act 138****REGISTRATION OF ENGINEERS ACT 1967**

An Act to provide for the registration of engineers, and sole proprietorships, partnerships and bodies corporate providing professional engineering services and for purposes connected therewith.

[23 August 1972, P.U. (A) 253/1972]

**PART I****PRELIMINARY****Short title**

1. (1) This Act may be cited as the Registration of Engineers Act 1967.

(2) (*Omitted*).

(3) The Minister may by notification in the *Gazette* suspend the operation of this Act in any part of Malaysia.

**Interpretation**

2. In this Act unless the context otherwise requires—

“Accredited Checker” means a person registered under section 10B;

“appointed date” means the date appointed for the commencement of this Act;

“architectural consultancy practice” has the meaning assigned to it in the Architects Act 1967 [*Act 117*];

“Board” means the Board of Engineers established by subsection 3(1);

“body corporate providing professional engineering services” means a body corporate, incorporated under the Companies Act 1965 [*Act 125* ], which provides professional engineering services;

“Engineering consultancy practice” means a sole proprietorship, partnership or body corporate, providing professional engineering services, registered under section 7A or 7B;

“firm or body corporate practising as consulting Quantity Surveyors” has the meaning assigned to it in the Quantity Surveyors Act 1967 [*Act 487*];

“Graduate Engineer” means a person registered under subsection 10(1);

“prescribed” means prescribed by regulations made under section 26;

“Professional Architect” has the meaning assigned to it in the Architects Act 1967;

“Professional Engineer” means a person registered under subsection 10(2);

“professional engineering services” means engineering services and advice in connection with any feasibility study, planning, survey, design, construction, commissioning, operation, maintenance and management of engineering works or projects and includes any other engineering services approved by the Board;

“Register” means the Register kept and maintained under section 5;

“registered Engineer” means a Graduate Engineer, Professional Engineer, Temporary Engineer or Accredited Checker;

“registered Quantity Surveyor” has the meaning assigned to it in the Quantity Surveyors Act 1967;

“Registrar” means the Registrar of Engineers appointed under subsection 6(1);

“Temporary Engineer ” means a person registered under section 10A.

PART II

BOARD OF ENGINEERS

**Establishment of Board of Engineers**

3. (1) For the purposes of this Act there is hereby established a board to be called “Board of Engineers” which shall be a body corporate with perpetual succession and a common seal and which may sue and be sued.

(2) The Board shall consist of the following members who shall be Malaysian citizens and who are appointed by the Minister:

- (a) a President who shall be a Professional Engineer;
- (b) not more than fourteen members who shall be Professional Engineers, five of whom shall be from a nomination list submitted by the Council of the Institution of Engineers (Malaysia);
- (c) one member on the nomination of the Board of Architects from among members of that Board established under the Architects Act 1967; and
- (d) one member on the nomination of the Board of Quantity Surveyors from among members of that Board established under the Quantity Surveyors Act 1967.

(2A) (*Deleted by Act A1158*).

(3) The members of the Board referred to in paragraph (2)(b) shall consist the following:

- (a) not more than five Professional Engineers who are in the public service of the Federation;
- (b) not more than two Professional Engineers who are in the service of any local authority or statutory authority;
- (c) not more than five Professional Engineers who are employee’s sole proprietors, partners or directors of an engineering consultancy practice; and
- (d) not more than two Professional Engineers who are employees of any person or body of persons, not being in the public service of the Federation or in the service of any local authority or statutory authority.

(4) A member of the Board, including the President shall, unless he sooner resigns or his appointment is revoked, hold office for a term not exceeding three years and subject to subsection (5) shall be eligible for reappointment.

(5) A member of the Board, including the President, shall not be appointed for more than five consecutive years.

(6) If any member of the Board dies or resigns or his appointment is revoked, a new member shall as soon as practicable be appointed in his place and the member so appointed shall hold office for the remainder of the term for which his predecessor was appointed.

(7) The provisions of the First Schedule shall have effect with respect to the Board.

### **Functions of the Board**

4. (1) The functions of the Board shall be—

- (a) to keep and maintain the Register;
- (b) to approve or reject applications for registration under this Act or to approve any such application subject to such conditions or restrictions as it may deem fit to impose;
- (c) to order the issuance of a written warning or reprimand, the imposition of a fine, suspension, cancellation, removal or reinstatement in accordance with Parts III and IV;
- (d) to fix from time to time with the approval of the Minister the scale of fees to be charged by registered Engineers and Engineering consultancy practices for professional engineering services rendered;
- (e) to hear and determine disputes relating to professional conduct or ethics of registered Engineers or to appoint a committee or arbitrator or arbitrators to hear and determine such disputes;
- (ea) to act as a stakeholder in a contract for professional engineering services, when requested;
- (eb) to employ any person, as it deems necessary, to assist the Board in carrying out its functions, powers and duties subject to such terms and conditions as it may determine;

- (*ec*) to provide facilities for the promotion of learning and education and to hold or cause to be held professional development programmes for registered Engineers to further enhance their knowledge in the latest developments relating to that profession;
  - (*ed*) to appoint a committee consisting of persons to be determined by the Board, to conduct examinations or to cause examinations to be conducted by an institution accredited by the Board for the purpose of admission to the profession;
  - (*ee*) to appoint any person to represent the Board in any committee, panel or institution, where that person would subsequently make recommendations to the Board on all matters regarding the qualifying for admission to the profession;
  - (*f*) to determine and regulate the conduct and ethics of the engineering profession; and
  - (*g*) generally, to do all such acts, matters and things as are necessary to carry out the provisions of this Act.
- (2) Without prejudice to the general powers conferred by subsection (1) the Board shall have power—
- (*a*) to purchase or lease any land or building required for any of the purposes of the Board;
  - (*b*) from time to time to borrow or raise money by bank overdraft or otherwise for the purposes specified in paragraph (*a*); and
  - (*c*) to lease out, dispose, or otherwise deal in any immovable property of the Board.

### PART III

#### REGISTRATION OF ENGINEERS

##### **Register**

5. (1) The Register shall be in five Parts, that is to say—
- (*a*) Part A—which shall contain the names, addresses and other particulars of Professional Engineers;

- (b) Part B—which shall contain the names, addresses and other particulars of Graduate Engineers;
- (c) Part C—which shall contain the names, addresses and other particulars of Temporary Engineers;
- (d) Part D—which shall contain the names, addresses and other particulars of Engineering consultancy practices; and
- (e) Part E—which shall contain the names, addresses and other particulars of Accredited Checkers.

(2) There shall be indicated against the name of each registered Engineer or Engineering consultancy practice kept in the Register the branch or branches of engineering in which he or it is qualified to practise and particulars of any conditions or restrictions imposed by the Board under subsection 7A(3), 7B(1) or 10A(1), or paragraph 4(1)(b).

### **Appointment and duties of Registrar**

**6.** (1) The Minister may appoint a Registrar of Engineers who shall be under the general direction of the Board and who shall sign all certificates of registration and their renewal, and orders of the Board, and record all entries of registration, suspension, cancellation, removal and reinstatement in the Register.

(2) The Registrar shall publish in either the *Gazette* or at least two national newspapers, in the national language and the English language, the name, address, registration number and other particulars of—

- (a) a registered Engineer whose registration has been—
  - (i) by an order of the Board—
    - (A) suspended under subsection 15(3) or paragraph 15(1A)(c); or
    - (B) cancelled under paragraph 15(1A)(d);
  - (ii) removed under section 16; or
  - (iii) reinstated under section 17; or

(b) an Engineering consultancy practice whose registration has been—

(i) by an order of the Board—

(A) suspended under subsection 15(3) or paragraph 7A(5)(cc); or

(B) cancelled under subsection 7B(3) or paragraph 7A(5)(dd);

(ii) removed under section 16; or

(iii) reinstated under section 17 or subsection 7A(8).

(2A) The publication under subsection (2) shall be made—

(a) as soon as possible after the order of the Board is made, if there is no appeal to the Appeal Board against that order; or

(b) as soon as possible after the order of the Board is confirmed by the Appeal Board, if there is an appeal filed against that order.

(3) In any proceedings, a certificate of registration shall be conclusive proof that the person, sole proprietorship, partnership or body corporate named in it is a registered Engineer or an Engineering consultancy practice.

(4) The Registrar may annually publish and offer for sale copies of the Register.

### **Restrictions on unregistered persons, Graduate Engineers, etc.**

7. (1) No person shall, unless he is a Professional Engineer—

(a) practise, carry on business or take up employment which requires him to carry out or perform professional engineering services;

(aa) be entitled to describe himself or hold himself out under any name, style or title—

(i) bearing the words “Professional Engineer” or the equivalent thereto in any other language;

- (ii) bearing any other word whatsoever in any language which may reasonably be construed to imply that he is a Professional Engineer; or
    - (iii) using the abbreviation “Ir.” before his name or the abbreviation “P.Eng.” after his name or in any way in association with his name;
  - (b) use or display any sign, board, card or other device representing or implying that he is a Professional Engineer;
  - (c) be entitled to recover in any court any fee, charge remuneration or other form of consideration for any professional engineering services rendered; or
  - (d) use the stamp as prescribed in the Second Schedule.
- (2) Notwithstanding subsection (1)—
- (a) a Graduate Engineer may, subject to section 8, take up employment which requires him to perform professional engineering services; and
  - (b) a person who is a Professional Engineer by virtue of paragraph 10(2)(iii) as in force on the appointed date and who, on 1 March 1974, was not practising as an engineer in private practice shall not, at any time after that date, so practise unless—
    - (i) he holds a certificate from the Board that he has obtained a professional qualification approved by the Board; or
    - (ii) he is a Corporate Member of the Institution of Engineers (Malaysia).
- (3) Where a person holds a certificate—
- (a) issued under the Electricity Supply Act 1990 [Act 447], the Factories and Machinery Act 1967 [Act 139] or any other written law or any regulations made thereunder, certifying him to possess a qualification prescribed for the purposes of those Acts or other written law; or
  - (b) issued by any person, body, authority or institution specified from time to time by the Board by notification in the *Gazette*, certifying him to hold a qualification for the purposes of any vocation,

nothing in subsection (1) shall prohibit such person—

- (c) to carry on any practice or business or take up any employment that requires the certificate or that is authorized or enabled thereby to be carried on or taken up;
- (d) to do so under whatever name or title he may use by virtue of being the holder of the certificate; or
- (e) to recover in any Court any fee, charge, remuneration or other form of consideration for any advice or services rendered pursuant to his practice, business or employment carried on or taken up by virtue of the certificate,

subject to such restrictions as may be imposed in the certificate.

### **Engineering consultancy practice**

**7A.** (1) Notwithstanding subsection 7(1), a sole proprietorship, partnership or body corporate may practise as an Engineering consultancy practice and recover in any court any fee, charge or remuneration or other form of consideration for any professional engineering services rendered by it pursuant to its practice as an Engineering consultancy practice carried on by virtue of this section, if it is registered with the Board as an Engineering consultancy practice and has been issued with a certificate of registration.

(2) Every application by a sole proprietorship, partnership or body corporate for registration as an Engineering consultancy practice shall be made to the Board in the prescribed form and manner and shall be accompanied by the prescribed fee.

(3) The Board shall register a sole proprietorship, partnership or body corporate as an Engineering consultancy practice, subject to such conditions and restrictions as it may deem fit to impose, if—

- (a) in the case of the sole proprietorship, the sole proprietor is a Professional Engineer;
- (b) in the case of the partnership, all the partners are Professional Engineers; or
- (c) in the case of the body corporate, it—
  - (i) has a board of directors comprising persons who are Professional Engineers;

- (ii) has shares held by members of the board of directors mentioned in subparagraph (i) solely or with any other persons who are Professional Engineers; and
- (iii) has a minimum paid-up capital which shall be an amount to be prescribed by the Board;

(4) An Engineering consultancy practice shall, within thirty days of the occurrence of any change of its sole proprietorship, or the composition of its partners, board of directors or its shareholders, furnish to the Board a true report in writing giving full particulars of the change.

(4A) An Engineering consultancy practice may only provide professional engineering services in the branch of engineering in which the sole proprietor, partner or a member of the board of directors of that practice is qualified to practise and as is shown in the Register under subsection 5(2).

(5) If the Board finds that—

- (a) the Engineering consultancy practice or sole proprietor or any partner, director or shareholder has breached, or failed to comply with or carry out, any of the terms, conditions or restrictions imposed by the Board upon registration of that Engineering consultancy practice;
- (b) the composition of the partners, board of directors or shareholders of the Engineering consultancy practice does not comply with section 7B or subsection (3);
- (c) the Engineering consultancy practice has breached any of the requirements of subsection (4); or
- (d) the sole proprietor or any partner, director, shareholder or employee of an Engineering consultancy practice, being a person registered under this Act, has committed, or is guilty of, or has contributed to, any of the acts or things set out in—
  - (i) paragraph 15(1)(a); or
  - (ii) paragraphs 15(1)(b) to (o) except paragraphs (e) and (f),

the Board may, subject to subsection (6), by written notice to the Engineering consultancy practice, order—

- (aa) the issuance of a written warning or reprimand to;
- (bb) the imposition of a fine not exceeding ten thousand ringgit on;
- (cc) the suspension of the registration for a period not exceeding one year of;
- (dd) the cancellation of the registration of; or
- (ee) any combination of the sanctions set out in paragraphs (aa) to (dd) on,

the Engineering consultancy practice.

(6) (a) The Board shall not make any order under paragraphs (5)(aa) to (ee) based upon any of the grounds of complaint set out in paragraph (5)(a), (b) or (c), or subparagraph (5)(d)(ii) unless—

- (i) there has been a hearing of the grounds of complaint against the Engineering consultancy practice, sole proprietor or any of its partners, directors, shareholders or employees who has caused, contributed or been a party to, the grounds of complaint, conducted by at least five members of the Board; and
- (ii) an opportunity to be heard, by representative appointed in writing or by counsel in the case of an Engineering consultancy practice, or personally or by counsel in the case of a sole proprietor or any partner, director, shareholder or employee has been given to such Engineering consultancy practice, sole proprietor, partner, director, share-holder or employee, as the case may be.

(aa) Notwithstanding paragraph (a), the Board may make an order under paragraphs (5)(aa) to (ee) if the Board has under paragraph 15(1A)(c) or (d) suspended or cancelled the registration of—

- (i) a sole proprietor;
- (ii) one of the partners in a partnership comprising only two partners; or
- (iii) one of the directors in the board of directors of a body corporate comprising only two directors.

(b) In any case where the grounds of complaint are based on paragraph (5)(d), the Board shall not make an order under paragraphs (5)(aa) to (ee) if, on the date of hearing, such Engineering consultancy practice satisfies the Board—

- (i) that the partner, director, shareholder or employee who has committed, or is guilty of, or has contributed to, such act or thing as forms the grounds for the complaint has ceased to be a partner, director, shareholder or employee of such Engineering consultancy practice;
- (ii) that notwithstanding that such partner, director, shareholder or employee has ceased to be a partner, director, shareholder or employee, such Engineering consultancy practice is able to comply with all the terms, conditions and restrictions imposed by the Board pursuant to section 7B or subsection (3); and
- (iii) that no other partner, director, shareholder or employee of such Engineering consultancy practice was, otherwise than by being its partner, director, shareholder or employee at the material date, in any way a party to, or connected with, the act or thing as forms the grounds for the complaint.

(7) Upon the Board suspending or cancelling the registration of an Engineering consultancy practice pursuant to paragraph (5)(cc) or (dd), respectively, the Engineering consultancy practice shall cease to exercise any right or privilege conferred upon it under the registration, but it shall be entitled to recover in any court any fee, charge, remuneration or other form of consideration for professional engineering services rendered by it prior to the date of receipt of the written notice from the Board suspending or cancelling its registration.

(8) (a) Without prejudice to section 17, the Board may at any time upon receipt of an application from an Engineering consultancy practice whose registration has been suspended or cancelled pursuant to paragraph (5)(cc) or (dd), respectively, reinstate its registration if it is satisfied that—

- (i) the reason which led to the suspension or cancellation of its registration no longer exists; and
- (ii) the Engineering consultancy practice, at the time of such application, complies with the terms, conditions and restrictions imposed by the Board pursuant to section 7B or subsection (3) at the time of the original registration.

(b) In reinstating the registration under paragraph (a) the Board may impose such additional terms, conditions and restriction as it thinks fit.

**A body corporate providing professional engineering services, architectural consultancy services and/or quantity surveying services**

**7B.** (1) Where a body corporate carries on a practice of providing professional engineering services, architectural consultancy services and/or quantity surveying services, the Board may, subject to such conditions or restrictions as it may deem fit to impose, register that part of the practice providing professional engineering services.

(2) The body corporate that applies for registration under subsection (1) must be incorporated under the Companies Act 1965 and—

(a) has a board of directors comprising Professional Engineers, Professional Architects and/or registered Quantity Surveyors;

(b) has shares held by the persons mentioned in paragraph (a) and any of the following persons and/or bodies corporate where—

(i) the Professional Engineers, Professional Architects, registered Quantity Surveyors, bodies corporate providing professional engineering services, bodies corporate providing architectural consultancy services and/or bodies corporate practising as consulting Quantity Surveyors hold a minimum combined share of 70% of the overall equity of that body corporate, of which the Professional Engineers and/or bodies corporate providing professional engineering services hold a minimum share of 10%; and

(ii) any other persons, including persons belonging to a profession allied to engineering, architecture or quantity surveying, being a profession approved in writing by the board regulating the profession of engineering, architecture or quantity surveying, respectively, hold a maximum share of 30%,

of the overall equity of the body corporate; and

(c) has a minimum paid-up capital which shall be an amount to be determined by the Minister.

(3) Notwithstanding paragraph 7A(5)(b), where in a body corporate registered under subsection (1)—

(a) the minimum shareholdings of a Professional Engineer and/or body corporate providing professional engineering services is less than the percentage stipulated in subparagraph (2)(b)(i); or

(b) the minimum combined shareholdings of a Professional Engineer, Professional Architect, registered Quantity Surveyor, body corporate providing professional engineering services, body corporate providing architectural consultancy services and/or body corporate practising as consulting Quantity Surveyors is less than the percentage stipulated in subparagraph (2)(b)(i),

that body corporate shall, as soon as possible but not later than three months after such change in shareholdings or within any extended period of time as may be approved by the Board, increase the respective shareholdings so as to comply with the percentage as stipulated in subparagraph (2)(b)(i), and if that body corporate fails to do so within the stipulated time, the Board shall cancel its registration under this Act.

(4) For the purposes of this Act, the body corporate shall, upon its registration, be deemed to be an Engineering consultancy practice.

**Only Professional Engineer and Engineering consultancy practice may submit plan, drawing, etc.**

8. (1) Except as otherwise provided under any other written law, no person or body, other than a Professional Engineer who is residing and practising in Malaysia or an Engineering consultancy practice providing professional engineering services in Malaysia, shall be entitled to submit plans, engineering surveys, drawings, schemes, proposals, reports, designs or studies to any person or authority in Malaysia.

(2) The right of a Professional Engineer or Engineering consultancy practice to submit plans, engineering surveys, drawings,

schemes, proposals, reports, designs or studies to any person or authority in Malaysia is subject to any conditions or restrictions imposed by the Board under section 7B, subsection 7A(3) or 10A(1), or paragraph 4(1)(b), and is restricted to the right to submit such documents only in relation to the branch of engineering in which the Professional Engineer including the Professional Engineer in an Engineering consultancy practice, is qualified as shown by the entries made in the Register under subsection 5(2).

(3) Nothing contained in any written law shall prevent any Professional Engineer or Engineering consultancy practice from making valuations of any structure, plant, machinery and equipment, and making valuations for mining purposes, in connection with his or its professional practice.

(4) Nothing in this section shall prohibit—

- (a) any person who, on the appointed date, was registered with any Government department, local authority or statutory authority for the purpose of submitting plans, drawings, schemes, proposals, reports, designs or studies to that department or authority to continue to submit them to that department or authority, subject to such terms and conditions as may be or have been imposed under such registration;
- (b) any person holding one of the certificates referred to in subsection 7(3) from continuing to do all things which the certificate enables or authorizes him to do;
- (c) any person from submitting plans or drawings where such plans or drawings are in connection with equipment, plant or specialized product invented or sold by him or his employer. For the purpose of this paragraph the expression “employer” shall not include a client; and
- (d) any person registered under section 10A from submitting plans, drawings, schemes, proposals, reports, designs or studies to any person or authority in Malaysia, subject to such conditions or restrictions as the Board may impose from time to time.

### **Registered Engineers, etc., subject to this Act**

**9.** Every registered Engineer and Engineering consultancy practice shall be subject to this Act.

**Qualifications for registration**

- 10.** (1) (a) Subject to this Act, a person who holds—
- (i) the qualifications required for Graduate Membership of the Institution of Engineers (Malaysia) and which are recognized by the Board; or
  - (ii) any qualification in engineering which is recognized by the Board,

shall be entitled on application to be registered as a Graduate Engineer.

(b) Subject to this Act, a person who is registered as a Graduate Engineer under paragraph (a) shall be required to obtain such practical experience as may be prescribed by the Board in order to be entitled to apply for registration as a Professional Engineer under subsection (2).

(2) Subject to this Act, the following persons shall be entitled on application to be registered as Professional Engineers:

- (i) any person who—
  - (a) is registered as a Graduate Engineer and has obtained the practical experience as prescribed under paragraph (1)(b);
  - (b) has passed a professional assessment examination conducted by the Board, or is a Corporate Member of the Institution of Engineers (Malaysia); and
  - (c) has complied with all the requirements of the Board;
- (ii) any person who, on the appointed date, was a Corporate Member of the Institution of Engineers (Malaysia) or held a professional qualification which the Board considers to be equivalent thereto;
- (iii) any person who satisfies the Board that he was practising or was carrying on business or was employed as a *bona fide* engineer immediately before the appointed date and who applies for registration within twelve months of that date:

Provided that a person who comes within the scope of subsection 7(3), shall not be entitled to be registered under this paragraph unless he holds a professional qualification recognized by the Board for the purposes of this Act; and

(iv) any person who, on the appointed date, had obtained a qualification which would have entitled him to be registered as a Graduate Engineer by virtue of paragraph (1)(a) and who, after that date, has obtained outside Malaysia a professional qualification which the Board considers to be equivalent to that required for Corporate Membership of the Institution of Engineers (Malaysia) and has passed a professional assessment examination conducted by the Board.

(3) For the purpose of paragraph (2)(iv), a person shall be treated as having obtained a professional qualification outside Malaysia if, while undergoing the necessary course of studies, receiving the necessary instruction and training, and acquiring the necessary practical experience, he was entirely or mostly absent from Malaysia.

(4) Subject to this Act, only a citizen or a permanent resident of Malaysia may qualify for registration as a Graduate Engineer or Professional Engineer and no person shall be entitled to be registered as a Professional Engineer unless he is at the time of application for registration, and has been for a period of not less than six months prior to the date of application, residing in Malaysia.

(5) No person shall be entitled to be registered as a Professional Engineer if at any time prior to his registration there exist any facts or circumstances which would have entitled the Board to cancel his registration pursuant to section 15.

(6) Subsections 17(3) and 19(1) shall apply *mutatis mutandis* to any person whose application for registration has been rejected pursuant to subsection (5).

### **Registration of Temporary Engineers**

**10A.** (1) Subject to this section and such conditions or restrictions as the Board may think fit to impose, the Board may, upon payment of the prescribed fee, approve the registration of a foreign engineer as a Temporary Engineer.

(2) A foreign engineer may be considered for registration as a Temporary Engineer if he satisfies the Board that—

- (a) he possesses the necessary qualification which is recognized for the practice of engineering as a professional engineer in the country where he normally practises; and
- (b) he possesses the necessary expertise and his physical presence is required in Malaysia for not less than one hundred and eighty days in one calendar year or he is a resident representative of the foreign component of a joint venture.

(3) The Board may approve the registration of a Temporary Engineer for such period not exceeding one calendar year and may renew the registration as it deems fit.

(4) Any foreign engineer who is not satisfied with the decision of the Board in rejecting his application for registration as a Temporary Engineer or the renewal thereof under this section may within twenty one days of being notified of the rejection, appeal to the Minister whose decision thereon shall be final and shall not be subject to appeal.

(5) *(Deleted by Act A1158).*

(6) A foreign engineer whose registration has expired may apply for registration as a Temporary Engineer subject to the provisions of this section.

(7) For the purpose of this section “foreign engineer” means an engineer who is not a citizen or a permanent resident of Malaysia.

### **Registration of Accredited Checker**

**10B.** (1) The Board may register a person as an Accredited Checker if—

- (a) he is a Professional Engineer registered in the relevant branch of engineering approved by the Board;
- (b) he has at least 10 years relevant practical experience in the design and construction of buildings as defined in the Street, Drainage and Building Act 1974 [Act 133]; and

- (c) he satisfies the Board that by virtue of his ability, standing in the profession, special knowledge or practical experience, he is qualified to be registered under this Act.

(2) No person shall, unless he is an Accredited Checker, perform the functions or duties as may be prescribed under this Act.

**11.** (*Deleted by Act A132*).

### **Application for registration**

**12.** Application for registration shall be made to the Board in such manner as may be prescribed and accompanied by the prescribed fee.

### **Certificate of registration**

**13.** (1) The Registrar shall upon receipt of the prescribed fee issue to any person, sole proprietorship, partnership or body corporate whose application for registration has been approved by the Board a certificate of registration in the prescribed form.

(2) Every certificate of registration, except the certificate of registration issued to a Graduate Engineer, shall, subject to this Act, expire on the 31st day of December of the year in which it is issued and may be renewed annually upon payment of the prescribed fee and upon satisfying such conditions as may be determined by the Board.

### **Notification of change of address**

**14.** Every registered Engineer and Engineering consultancy practice shall notify the Registrar of any change in his or its business address.

## **PART IV**

### **CANCELLATION, REMOVAL, REINSTATEMENT, ETC.**

#### **Cancellation of registration, etc.**

**15.** (1) The Board may make any or any combination of the orders specified in paragraphs (a) to (d) of subsection (1A) against a registered Engineer under any of the following circumstances:

- (a) if he is convicted of any offence involving fraud or dishonesty or moral turpitude in Malaysia or elsewhere;

- (b) if he offers or accepts any commission which in the opinion of the Board is an illicit commission;
- (c) if whilst acting in his professional capacity, he at the same time without disclosing the fact in writing to his client, is a sole proprietor, partner, director or member of or substantial shareholder in or agent for any contracting or manufacturing company or firm or business or has any financial interest in any such company or firm or business, with which he deals on behalf of his client;
- (d) if his registration under this Act has been obtained by fraud or misrepresentation;
- (e) if his qualification under section 10 has been withdrawn or cancelled by the Authority through which it was acquired or by which it was awarded;
- (f) if he is found to be of unsound mind;
- (fa) if he is found to be incapable or no longer able to perform his professional duties effectively;
- (fb) if he becomes a bankrupt;
- (g) if he is found by the Board to have contravened, or failed to comply with, this Act or any regulations made thereunder;
- (h) if he fails to observe any conditions or restrictions subject to which he is registered;
- (i) if he is found guilty by the Board of any act or conduct which in the opinion of the Board is infamous or disgraceful;
- (j) if he procures, or assists in procuring, or is knowingly a party to procuring, by fraud or misrepresentation, the approval of the Board for a sole proprietorship, partnership or body corporate to be registered as an Engineering consultancy practice;
- (k) if he conceals or assists in concealing from the Board the existence of any facts or circumstances which, if known, would entitle the Board to cancel the registration of a sole proprietorship, partnership or body corporate, in which he is a sole proprietor, partner, director or shareholder, as an Engineering consultancy practice;

- (l) if he contravenes, or fails to perform, or assists in the contravention of, any terms, conditions or restrictions imposed by the Board when registering a sole proprietorship, partnership or body corporate as an Engineering consultancy practice under section 7B or subsection 7A(3);
- (m) if he causes or permits or suffers any sole proprietorship, partnership or body corporate in which he is a sole proprietor, partner, director or shareholder to practise as an Engineering consultancy practice prior to its registration by the Board;
- (n) if he causes or permits or suffers any Engineering consultancy practice in which he is a sole proprietor, partner, director or shareholder to continue to practise as an Engineering consultancy practice after the Board has suspended or cancelled its registration under paragraph 7A(5)(cc) or (dd), respectively;
- (o) if he fails to discharge his professional duties with due skill, care and diligence.

(1A) The orders referred to in subsection (1) are—

- (a) the issuance of a written warning or reprimand;
- (b) the imposition of a fine not exceeding five thousand ringgit;
- (c) the suspension of registration for a period not exceeding one year;
- (d) the cancellation of registration.

(2) The Board shall not make any order under subsection (1A), based upon any of the circumstances set out in paragraphs (1) (b) to (d), or paragraph (1) (f) to (o), unless—

- (a) there has been a hearing at which at least five members of the Board are present; and
- (b) an opportunity of being heard either personally or by a person appointed by the registered Engineer has been given to the registered Engineer against whom the Board intends to make the order.

(3) The Board may, if it deems fit, suspend the registration of any registered Engineer or Engineering consultancy practice for a period not exceeding six months pending any investigation by an Investigating Committee under this Act and during the period of such suspension he or it shall not exercise any of the rights or privileges accorded to him or it under this Act.

(4) *(Deleted by Act A1158).*

### **Removal from Register**

**16.** There shall be removed from the Register the name and other particulars of—

- (a) any registered Engineer who has died, or Engineering consultancy practice which has ceased to practise;
- (b) any registered Engineer, other than a Graduate Engineer, or Engineering consultancy practice who has failed to renew his or its registration within one month of the expiry of the registration;
- (c) any registered Engineer whose registration has been cancelled under paragraph 15(1A)(d) or Engineering consultancy practice whose registration has been cancelled under subsection 7B(3) or paragraph 7A(5)(dd); or
- (d) any registered Engineer or Engineering consultancy practice whose registration has been effected by reason of any mistake or error made by the Board in considering his or its application for registration.

### **Reinstatement**

**17.** (1) Any registered Engineer or Engineering consultancy practice whose name has been removed from the Register pursuant to an order of the Board under subsection 7A(5) or 15(1A), shall, if his or its appeal is allowed, forthwith be reinstated and the Registrar shall issue a certificate of registration to him or it.

(2) Any registered Engineer, other than a Graduate Engineer, or Engineering consultancy practice whose name has been removed from the Register for failure to renew his or its registration for a period of not more than three years shall be reinstated as soon as may be after he or it has notified the Registrar of his or its desire

to be reinstated and upon payment of such fees as may be prescribed, and the Registrar shall issue a certificate of registration to him or it.

(2A) A registered Engineer, other than a Graduate Engineer, or Engineering consultancy practice, who fails to renew his or its registration for a period of more than three years consecutively may be reinstated if he or it applies to the Board for reinstatement and the Board if satisfied with his or its reasons for reinstatement and upon payment of such fees as may be prescribed, shall issue a certificate of registration to him.

(3) Any registered Engineer or Engineering consultancy practice whose name has been removed from the Register pursuant to an order of the Board under subsection 7A(5) or 15(1A) and who has not appealed against that order or whose appeal has been dismissed, may after the expiration of not less than six months from the date of the order of cancellation or from the date of the decision of the appeal apply for reinstatement. The Board upon receipt of satisfactory evidence of proper reasons for his or its reinstatement and upon reimbursement to it of all expenditure incurred by it arising out of the proceedings leading to cancellation of his or its registration and upon payment of the prescribed fee, shall issue a certificate of registration to him or it.

### **Certificates to be returned**

**18.** Any registered Engineer or Engineering consultancy practice whose name is removed from the Register shall within fourteen days after notification to him or it by registered post of the removal, surrender to the Board the certificate of registration issued to him or it under this Act.

## **PART V**

### **GENERAL**

#### **Appeal**

**19.** (1) Any person, sole proprietorship, partnership or body corporate—

(a) who has been refused registration by the Board;

- (b) who has been registered but is dissatisfied with any conditions or restrictions imposed by the Board under section 7B, subsection 7A(3) or 10A(1), or paragraph 4(1)(b); or
- (c) who having been registered has had his or its name removed from the Register pursuant to an order made by the Board under subsection 7A(5) or 15(1A);
- (d) who has been registered and has subsequently applied to have his or its registration extended to cover additional branches of engineering and has had his or its application refused; or
- (e) who is not satisfied with an order of the Board made under subsection 7A(5) or 15(1A),

may within twenty-one days of being notified of the refusal, conditions, restrictions, removal or order appeal to the Appeal Board constituted under section 20 and the Appeal Board may thereupon make such orders as it may deem just or proper.

(2) The Board shall give effect to any order made by the Appeal Board forthwith.

### **Appeal Board**

**20.** For the purpose of this Part there shall be established an Appeal Board consisting of a Judge of the High Court as Chairman who shall be appointed by the Yang di-Pertuan Agong (after consultation with the Chief Justice) and two other persons appointed by the Yang di-Pertuan Agong.

### **Tenure of office of members of the Appeal Board**

**21.** A member of the Appeal Board shall unless he sooner resigns his office or his appointment is revoked hold office for such term as may be specified in the instrument appointing him and shall be eligible for reappointment.

### **Procedure of appeal**

**22.** (1) A notice of appeal against an order of the Board referred to in section 19 shall be made in writing to the Appeal Board and a copy of the notice sent to the President of the Board.

(2) On receipt of a copy of the notice of appeal the President of the Board or in the absence of the President the member delegated by the President so to do shall cause to be prepared and sent to the Chairman of the Appeal Board records or a summary of the records of the proceedings of the Board and the statement setting out the grounds on which the Board arrived at its decision.

(3) Upon receiving the records or summary of the records and the grounds of the decision of the Board the Chairman of the Appeal Board shall convene a meeting of the Appeal Board to hear the appeal.

(4) The Appeal Board after hearing the appeal may confirm or vary the decision of the Board.

(5) The decision of the Appeal Board shall be final.

### **Procedure of Appeal Board**

**23.** The Appeal Board shall at its discretion determine its own procedure.

### **Penalties for obtaining registration by false pretences, etc.**

**24.** Any person, sole proprietorship, partnership or body corporate who—

- (a) procures or attempts to procure registration or a certificate of registration under this Act by knowingly making or producing or causing to be made or produced any false or fraudulent declaration, certificate, application or representation whether in writing or otherwise;
- (b) wilfully makes or causes to be made any falsification in the Register;
- (c) forges, alters or counterfeits any certificate of registration under this Act;
- (d) uses any forged, altered or counterfeited certificate of registration under this Act knowing the same to have been forged, altered or counterfeited;
- (e) impersonates a registered Engineer;

- (f) buys or fraudulently obtains a certificate of registration under this Act issued to another registered Engineer or Engineering consultancy practice;
- (g) sells any certificate of registration issued under this Act; or
- (h) contravenes section 7 or 8, or subsection 7A(1), 24A(1) or 24B(5),

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit in the case of an individual, or fifty thousand ringgit in the case of a sole proprietorship, partnership or body corporate, or to imprisonment for a term not exceeding three years, or to both.

### **Restriction on employment of unregistered person to provide professional engineering services**

**24A.** (1) No person shall employ a person, sole proprietorship, partnership or body corporate, other than a registered Engineer or Engineering consultancy practice, to perform professional engineering services.

(2) Nothing in subsection (1) shall prohibit the employment of any person holding one of the certificates referred to in subsection 7(3) to do all things which the certificate enables or authorizes him to do.

### **Investigating Committee and its powers**

**24B.** (1) For the purposes of subsection 15(3), the Board shall appoint an Investigating Committee consisting of—

- (a) a Chairman, who need not be a registered Engineer; and
- (b) two registered Engineers,

to conduct an investigation.

(2) Where the Chairman of the Investigating Committee is a member of the Board, he shall not sit as a member of the Board when the Board conducts a hearing or makes an order under subsection 7A(5) or 15(1A) in respect of the registered Engineer who has, or Engineering consultancy practice which has, been examined by the Investigating Committee of which he is the Chairman.

(3) The Investigating Committee appointed under subsection (1) may, for the purpose of an investigation—

- (a) require any person, including a sole proprietor, partner, director, manager or secretary, to attend before it and give evidence on oath or affirmation, and the Chairman of the Investigating Committee presiding at the investigation may administer the oath; and
- (b) require such person to produce any book, document or paper relating to the subject matter of the investigation which is in the custody of that person or under his control.

(4) Upon completion of its investigation, the Investigating Committee shall submit a report together with its recommendations, if any, to the Board for its consideration.

(5) A person, including a sole proprietor, partner, director, manager or secretary, shall, unless with reasonable excuse—

- (a) attend and give evidence when required to do so by the Investigating Committee;
- (b) answer truthfully and fully any question put to him by any member of the Investigating Committee; or
- (c) produce to the Investigating Committee any book, document or paper required of him.

### **General penalty**

**25.** (1) Any person, sole proprietorship, partnership or body corporate who contravenes this Act or any regulations made thereunder shall be guilty of an offence and shall, where no penalty is expressly provided therefor, be liable, on conviction, to a fine not exceeding two thousand ringgit.

(2) If a sole proprietorship, partnership or body corporate contravenes this Act or any regulations made thereunder, the sole proprietor or every partner, director, manager, secretary or other similar officer thereof shall be guilty of the same offence and be liable to the same penalty as the sole proprietorship, partnership or body corporate is guilty of and liable to, unless he proves that the offence was committed without his knowledge, consent or connivance or was not attributable to any neglect on his part.

(3) If a registered Engineer or Engineering consultancy practice refuses or fails to comply with an order of the Board made under subsection 7A(5) or 15(1A), or Appeal Board made under section 19, he shall be guilty of an offence, and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit in the case of an individual, or to a fine not exceeding fifty thousand ringgit in the case of an Engineering consultancy practice.

## **Regulations**

**26.** The Board may with the approval of the Minister make regulations to prescribe anything which may be prescribed or is required to be prescribed under this Act or to enable it to perform any of its functions or to exercise any of its powers set out in this Act.

## **Authorization by President**

**26A.** (1) Subject to subsection (2) and such policy as the Board may from time to time adopt, the President may from time to time, on application in the prescribed form and on payment of the prescribed fee and on such conditions or with such restrictions as he thinks fit to impose, in writing authorize any person who is not a registered Engineer or any sole proprietorship, partnership or body corporate which is not an Engineering consultancy practice to do any act or thing that the person, sole proprietorship, partnership or body corporate would, but for the authorization, be prohibited, or not be entitled, to do, and may at any time, without assigning any reason therefor, withdraw the authorization by notice served on the person, sole proprietorship, partnership or body corporate.

(2) No person, sole proprietorship, partnership or body corporate shall be authorized under this section to do any such act or thing for more than a total period of one hundred and eighty days in any one calendar year.

(3) A person, sole proprietorship, partnership or body corporate who does any such act or thing under and in accordance with an authorization under subsection (1) shall, notwithstanding any provision of this Act to the contrary, be deemed to be permitted or entitled to do that act or thing as if he or it were a registered Engineer or an Engineering consultancy practice.

### **Saving as to right of Government**

**27.** Nothing in this Act contained shall apply to anything done or omitted to be done by or under the authority of the Federal Government or the Government of any State.

### **Indemnity**

**28.** (1) No action or proceeding shall be instituted or maintained in any court against the Board, Appeal Board, Investigating Committee or any committee appointed by the Board, any members of the Board, Appeal Board, Investigating Committee or any such committee, or any person authorized to act for or on behalf of the Board for any act or omission done in good faith in the discharge of any of its or his functions, powers and duties under this Act or any regulations made under this Act.

(2) This section does not apply to powers conferred under subsection 4(2) or any power to enter into contracts exercised by the Board.

### **Appointment of advocate and solicitor**

**29.** The Board may appoint an advocate and solicitor to institute and conduct proceedings on its behalf.

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FIRST SCHEDULE

[Subsection 3(7)]

**1.** (1) The following person shall be disqualified from being appointed or being members of the Board—

(a) a person who is of unsound mind and/or is otherwise incapable of performing his duties; and

(b) a bankrupt.

(2) A member of the Board shall vacate his office if he fails to attend three consecutive meetings of the Board without the permission in writing of the President or if he becomes disqualified under subparagraph (1).

2. (1) The Board shall meet at least once a year at such place as may from time to time be appointed by the President.

(2) At any meeting of the Board the President shall preside, and in his absence the members shall elect one of their number to preside over the meeting.

(3) Nine members of whom at least two shall be members appointed under paragraph 3(3)(a) or (b) and two shall be members appointed under paragraph 3(3)(c) or (d) personally present at any meeting of the Board shall constitute a quorum.

(4) If on any question to be determined by the Board there is an equality of votes, the President or, in the case where the President is absent, the member presiding over that meeting shall have a casting vote.

(5) Subject to subparagraphs (3) and (4) the Board shall determine its own procedure and, except in relation to sections 15 and 26, have power to delegate to committees appointed by the Board all or any of the functions of the Board upon such terms and subject to such conditions and restrictions as the Board may in its absolute discretion think fit. Any act, ruling or decision of any committee so appointed shall be deemed to be the act, ruling or decision of the Board.

(6) The Board shall cause proper records of its proceedings and of the proceedings of any committee appointed by it to be kept.

3. (1) The Board shall have a common seal which shall bear such device as the Board may approve and such seal may from time to time be broken, changed, altered and made anew by the Board as the Board may think fit.

(2) Until a seal is provided by the Board under this paragraph, a stamp bearing the description "Board of Engineers" may be used and shall be deemed to be the common seal.

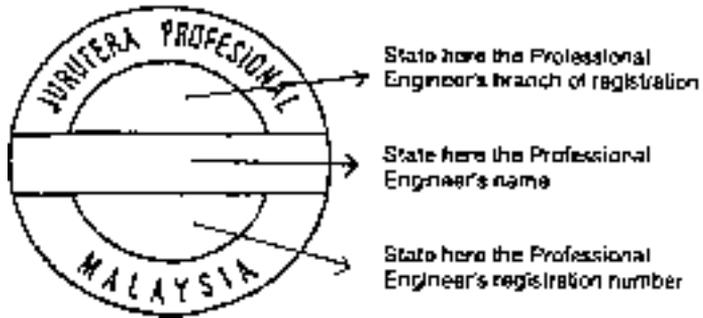
(3) The common seal shall be kept in the custody of the President and shall be authenticated by the President or other member acting in the absence of the President, and any document purporting to be sealed with the said seal, authenticated as aforesaid, shall until the contrary is shown be deemed to have been validly executed.

4. All moneys arising from fees payable under this Act shall be paid to the Board to be applied in the first place to defraying the expenses of registration and other expenses of the administration of this Act including any expenses of the Board that may be allowed under any regulations made under this Act and thereafter to providing scholarships and the promotion of learning and education in connection with engineering. Moneys not immediately required by the Board shall be invested in such trustee securities as the Board may from time to time determine.

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SECOND SCHEDULE

[Paragraph 7(1)(d)]



**LAWS OF MALAYSIA****Act 138****REGISTRATION OF ENGINEERS ACT 1967**

## LIST OF AMENDMENTS

Amending law	Short title	In force from
Act A132	Registration of Engineers (Amendment) Act 1972	07-07-1972
Act A173	Registration of Engineers (Amendment) Act 1973	23-08-1972
Act A218	Registration of Engineers (Amendment) Act 1974	22-02-1974 except paragraph 2(b): 01-07-1974
Act A662	Registration of Engineers (Amendment) Act 1987	16-01-1987
Act A1158	Registration of Engineers (Amendment) Act 2002	01-12-2002

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## LAWS OF MALAYSIA

### Act 138

## REGISTRATION OF ENGINEERS ACT 1967

### LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
Long title	Act A1158	01-12-2002
2	Act A132 Act A662 Act A1158	07-07-1972 16-01-1987 01-12-2002
3	Act A132 Act A173 Act A662 Act A1158	07-07-1972 23-08-1972 16-01-1987 01-12-2002
4	Act A132 Act A662 Act A1158	07-07-1972 16-01-1987 01-12-2002
5	Act A132 Act A662 Act A1158	07-07-1972 16-01-1987 01-12-2002
6	Act A662 Act A1158	16-01-1987 01-12-2002
7	Act A132 Act A173 Act A218  Act A662 Act A1158	07-07-1972 23-08-1972 22-02-1974, 01-07-1974 16-01-1987 01-12-2002
7A	Act A218 Act A662 Act A1158	22-02-1974 16-01-1987 01-12-2002
7B	Act A1158	01-12-2002
8	Act A132 Act A173 Act A218 Act A662 Act A1158	07-07-1972 23-08-1972 22-02-1974 16-01-1987 01-12-2002
9	Act A1158	01-12-2002

Section	Amending authority	In force from
10	Act A132	07-07-1972
	Act A173	23-08-1972
	Act A218	22-02-1974
	Act A662	16-01-1987
	Act A1158	01-12-2002
10A	Act A662	16-01-1987
	Act A1158	01-12-2002
10B	Act A1158	01-12-2002
11	Act A132	07-07-1972
12	Act A1158	01-12-2002
13	Act A132	07-07-1972
	Act A1158	01-12-2002
14	Act A1158	01-12-2002
15	Act A132	07-07-1972
	Act A218	22-02-1974
	Act A662	16-01-1987
	Act A1158	01-12-2002
16	Act A662	16-01-1987
	Act A1158	01-12-2002
17	Act A132	07-07-1972
	Act A662	16-01-1987
	Act A1158	01-12-2002
18	Act A1158	01-12-2002
19	Act A662	16-01-1987
	Act A1158	01-12-2002
22	Act A1158	01-12-2002
24	Act A132	07-07-1972
	Act A1158	01-12-2002
24A	Act A662	16-01-1987
	Act A1158	01-12-2002
24B	Act A1158	01-12-2002
25	Act A173	23-08-1972
	Act A218	22-02-1974
	Act A662	16-01-1987
	Act A1158	01-12-2002

Section	Amending authority	In force from
26	Act A662	16-01-1987
26A	Act A218 Act A1158	22-02-1974 01-12-2002
28	Act A1158	01-12-2002
29	Act A1158	01-12-2002
First Schedule	Act A132 Act A662 Act A1158	07-07-1972 16-01-1987 01-12-2002
Second Schedule	Act A1158	01-12-2002

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