

THE CONTRACTORS REGISTRATION ACT, NO. 6 OF 2008

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**ACT NO. 6 OF 2008
I ASSENT**

**(AMANI ABEID KARUME)
PRESIDENT OF ZANZIBAR
AND
CHAIRMAN OF REVOLUTIONARY COUNCIL**

29th July, 2008

**AN ACT TO PROVIDE FOR REGISTRATION OF CONTRACTORS AND TO
ESTABLISH A BOARD WHICH WILL REGULATE THE CONDUCT OF THE
CONTRACTORS AND OTHER RELATED MATTERS**

ENACTED by the House of Representatives of Zanzibar

**PART ONE
PRELIMINARY PROVISIONS**

Short title and
commencement.

1. This Act may be cited as the Contractors Registration Act, 2008 and shall come into operation on such date as the Minister may by notice published in the Official Gazette.

Interpretation.

2. In this Act, unless the context requires otherwise -

"Board" means the Contractors Board established under section 4 of this Act;

"Contractor" means any person who is developer or investor or for reward or other consideration undertakes the construction, installation or erection, for any other person, of any structure for public use or otherwise situated below, above the ground or other work connected therewith or the execution, from any other person, of any alteration or otherwise to any structure for public use, or other work connected therewith, where such person undertakes to do the following:-

(a) Supplies the materials necessary for the work or is authorized to exercise control over the type, quality or the use of materials supplied by any other person; or

(b) Supplies the labour necessary for the work or authorized on behalf of the person for whom the work is undertaken or any person, to employ or select or employ workmen to assist him in execution of the work;

Provided that a person shall be deemed not to be a contractor for the purpose of this Act, if he at no time undertakes or holds himself out as willing to undertake any work where the cost of construction, erection, installation, alteration or completion which does exceed such a sum as shall be determined by the Board from time to time for different disciplines of the construction industry, or undertakes or holds himself out as willing to undertake construction of the residential house for his own family which does not require an input of structural design;

"Certificate of compliance" means a certificate of compliance issued by the Registrar of Companies;

"Department" means the Department responsible for building construction;

"Director" means the Director for Building Construction;

"Firm" includes a person or body of persons whether formed into a group or entity;

"Foreign" in relation to a firm or company means a firm or company registered under the Company Decree (Chapter 153) Laws of Zanzibar whose majority shares are owned by non Zanzibaris;

"Local" in relation to a natural person, means a Zanzibari, and in relation to a firm means a contracting firm or company incorporated in Zanzibar whose majority shares are owned by Zanzibaris;

"Minister" means the Minister responsible for building construction;

"Member" in relation to the Board includes the Chairperson and the Vice Chairperson;

"President" means the President of Zanzibar and Chairman of the Revolutionary Council;

"Register" means the register of the Contractors maintained by the Board in accordance with the provisions of this Act;

"Registered" in relation to any Contractor means a Contractor whose name is entered in the relevant register;

"Registrar" means the Registrar appointed under the provision of section 16 of this Act.

"Zanzibari" means:-

- (a) any individual defined to be a Zanzibari by the Zanzibari Act, No. 5 of 1985 of Zanzibar; or
- (b) for the case of company incorporated in Zanzibar in accordance with the Company Decree, Cap. 153 in respects that the Registrar General of the company satisfies that the majority of the issued share capital is beneficially owned by Zanzibaris.

PART TWO DEPARTMENT OF CONSTRUCTION AND BOARD OF CONTRACTORS

Role of the Department.

3. The Department of Construction as a Administrator of this Act shall have the following role: -

- (a) to advise the Minister on any matter related to laws and regulations governing the Contractors' registration and Conduct;
- (b) to ensure that all construction sites are stored and guarded and labour laws, occupational health and safety regulations for the construction industry are adhered to.

Establishment of the Board.

4.(1) There is hereby established a Board to be known as the Zanzibar Contractors Registration Board.

(2) The Board shall -

- (a) be a body corporate with perpetual succession and a common seal;
- (b) be capable to sue and being sued in its corporate name;

- (c) be capable to acquire, hold and dispose movable and immovable property in its corporate name for and in connection with the purpose of this Act;
- (d) be capable to make by-laws to facilitate the implementation of this Act;
- (e) do all acts and things that body corporate may by law do and that are necessary for or incidental to the performance of its functions;

(3) The seal of the Board shall not be affixed to any instrument except as in the presence of Chairperson or vice Chairperson, Secretary or member of the Board.

Composition of the Board and tenure of office.

5.-(1) The Board shall consist of the following members:

- (a) Chairperson who shall be appointed by the President.
- (b) the Director.
- (c) not more than three members appointed by the Minister from the private sector who have been registered Architects, Engineers or Quantity Surveyors.
- (d) not more than three members appointed by the Minister, from the Ministry responsible for Construction who have experiences in the construction industries.

(2) A person shall not be appointed as a Chairperson unless he has knowledge and experience on construction of not less than five years.

(3) The members shall elect a Vice Chairperson of the Board from amongst themselves.

(4) With the exception of an ex-officio members, the tenure of office of the Board members shall be three years and may be re-appointed for another second term only.

(5) The Minister may fill any casual vacancy occurring in the membership, and may suspend or revoke the appointment of any member -

- (a) for inability to perform the functions of his office; or
- (b) for misconduct; or

- (c) if fails to comply with the regulations relating to disclosure of interest in a particular case; or
- (d) who has been convicted of a criminal offence involving fraud, dishonesty or moral turpitude and sentenced to imprisonment, even with the option of a fine unless the person has received free pardon before the date of his appointment ; or
- (e) if the member becomes absent from three consecutive meetings of the Board without the leave of the Chairperson; or
- (f) if has been declared to be of unsound mind by a Court.

(6) A member may resign by giving notice of one week in writing to the appointing authority, of his intention to do so.

Secretary of the Board.

6. The Board shall appoint a qualified lawyer to be a Secretary of the Board.

Meetings of the Board.

7.(1) The Board shall meet not less than four times in every year at a suitable time, place and date as the Board may appoint.

(2) All meetings of the Board shall be convened by the Chairperson or, in his absence by the Vice Chairperson.

(3) The Chairperson or, in his absence notified in writing, the Vice Chairperson, shall preside at the meeting of the Board and in the absence of both such Chairperson and the Vice Chairperson, the members present at the meeting shall elect one of the members to be a Chairperson for that meeting.

Special meeting of the Board.

8. The Chairperson or, in his absence, the Vice Chairperson may at any time convene a special meeting of the Board.

Quorum and voting at meeting.

9.(1) A simple majority of the total number of members shall constitute a quorum at any meeting of the Board.

(2) All acts, matters and things authorized to be done by the Board shall be decided by the resolution of the members present.

(3) A decision of the majority of members present and voting at a meeting of the Board shall be deemed to be a decision of the Board;

(4) Every member of the Board shall have one vote and in the event of an equality of votes the Chairperson of the meeting shall have a casting vote.

(5) Notwithstanding the provisions of sub sections (1), (2), (3) and (4) of this section, where the Chairperson so directs, a decision may be made by the Board without a meeting by circulation of the relevant papers among all the members and the expression in writing of their views, but any member shall be entitled to require that any such decision shall be deferred until the subject matter is considered at a meeting of the Board.

(6) A member shall disqualify himself from participating in any investigation, hearing or decision concerning the matter in respect of which that member has financial or personal interest.

Provided that a member of the Board who has a strong objection to the decision of the Board shall have the right and entitlement to have his objection recorded in the minutes of the Board.

Minutes of meeting of the Board.

10.(1) The Board shall record or cause to be recorded and kept minutes of all business conducted or transacted in its meetings that shall be read and confirmed, or amended and confirmed, at the next meeting of the Board and signed by the Secretary and the person presiding at the meetings.

(2) The minutes of the meeting of the Board shall be kept and approved by the Board in the next meeting and signed by the Chairperson or Vice Chairperson and Secretary of the Board.

Functions of the Board.

11. Subject to the provisions of this Act and Regulations made here under, the functions of the Board shall be:-

- (a) to effect registration of contractors, maintain a register of contractors and to prescribe fees for registration and annual subscription;
- (b) to regulate the activities of the contractors and to promote and maintain professional conduct and integrity of contractors;
- (c) to take legal actions against unregistered contractors who undertake construction, installation, erection or alteration work and to take legal action against defaulters;

- (d) to promote and provide opportunities and facilities for the study and for the training of the contractors in pre-contract and post-contract management, construction, erection, installation or alteration of structures and allied subject connected with them;
- (e) to conduct an interview, examinations, and to grant certificates and other awards of the Board in the subject referred to in paragraph (f);
- (f) to arrange and provide facilities for courses, workshops, conferences, seminars, discussions, symposia and consultations on matters relating to the subjects referred to in this paragraph;
- (g) to arrange for the publication and general dissemination of material produced in connection with the work and activities of the Board;
- (h) to furnish managerial, technical and administrative consultancy services to contractors;
- (i) to interact with both local and international professional Boards or Associations involved in the construction industry;
- (j) to set criteria to be met by contractors for registration in different classes;
- (k) to classify contractors into different types, categories and classes and set class limits of projects to be executed by contractors;
- (l) to review, from time to time the registration criteria of contractors in order to ensure that the registration criteria, types, categories and classes are met;
- (m) to consider applications for dispensations of specific contracts by client or their consultants on behalf of registered contractors;
- (n) to take disciplinary action against registered contractors who contravene the provisions of this Act, regulations or by-laws;

- (o) to receive, investigate and hear complaints against the contractors to inquire into the conduct and discipline of the registered contractors;
- (p) to review and report annually to the Minister on the performance of the functions, duties and exercise of the power of the Board under this Act;
- (q) to carry out any other functions which are in the public interest and which the Minister may in writing, direct.

Confidentiality of information.

12.(1) A member who has information in his capacity shall not disclose that information to any person, or make use of, or act on that information ,except:-

- (a) for the purpose of the Board; or
- (b) as required or permitted by law; or
- (c) in accordance with subsection (2) of this section.

(2) A member may disclose, make use of, or act on the information if:

- (a) the member is authorized to do so by the Board;
- (b) the disclosure, use or act in question will not be likely to prejudice the Board.

(3) Any member who contravenes the provision of this section, commit an offence and upon conviction shall be liable to pay fine of not less than five hundred thousand shillings or imprisonment for a term of not less than one year or to both, such fine and imprisonment.

Procedures of the meeting of the Board.

13. Subject to the provisions of this Act and any regulations may be made under this Act, the Board shall have powers to regulate its own proceedings.

Remuneration of the Members of the Board.

14.(1) The Members and Secretary of the Board shall be paid from the funds of the Board such allowances as the Board may recommend and approved by the Minister.

(2) In recommending allowances, the Board shall make provisions for reimbursement of any expenses incurred by a member in connection with the business of the Board.

Limitation and liability. **15.** A member of the Board shall not be personally liable for any act or default of the Board done or omitted in good faith in the course of carrying out the responsibilities and functions of, or exercising the power conferred upon him by the Board.

PART THREE REGISTRATION AND LICENSING

Appointment of Registrar. **16.(1)** The Board shall appoint a Registrar of the Board who shall be a registered Architect, Engineer or Quantity Surveyor who shall hold and vacate office in accordance with the terms of the appointment.

(2) The Registrar shall be responsible to the Board.

Register of Contractors. **17.(1)** The Registrar shall keep and maintain registers of contractors of different types, categories and classes in which the name of every person entitled to have his name as a registered contractor, shall be entered as soon as it is practicable after being accepted by the Board for registration, showing against his name:-

- (a) the date of entry;
- (b) the name and postal address(es);
- (c) physical address;
- (d) email address(es);
- (e) person to contact;
- (f) passport where applicable;
- (g) insurance;
- (h) Permanent residence card;
- (i) the registration number;
- (j) the class registered in;
- (k) the capital and other resources;
- (l) tools, plants and equipments;
- (m) the key managerial, professional or technical and other personnel in the case of body of Corporate;

- (n) directors or partners, one or more of whom shall be technically qualified and experienced in the relevant work as prescribed by the Board;
- (o) in the case of an individual, the qualifications and skills as prescribed by the Board necessary to enable him to discharge in satisfactory manner, the obligations which he may reasonably expected or called upon to undertake as a contractor belonging to the category, type and class in respect of which registration is being sought;
- (p) acceptable security cover;
- (q) annual turnover of construction activities;
- (r) category (foreign or local);
- (s) duration of registration;
- (t) type of registration; and
- (u) any other particulars which the Board may, from time to time, direct;

(2) Registers shall be kept for the following types of contractors namely;

- (a) building contractors;
- (b) civil work contractors;
- (c) electrical contractors;
- (d) mechanical contractors;
- (e) water works and sewerage contractors; and
- (f) Specialist contractors such as demolition, roofing, painting, joinery, plumbing, suppliers and any other specialist contractors specified by the Board.

(3) Any change in any of the particulars registered under subsection (1) shall be entered in the appropriate register by the Registrar.

Publication of the register and lists.

18.(1) The Registrar shall, by notice published in the Official Gazette and local news media, as soon as may be practicable after registration, the names, postal addresses, premises, registration number, type, category and class registered in and names and qualifications of partners or directors of the registered contractors.

(2) Subject to the direction of the Board, the Registrar may publish any amendment to or deletion from the register in the Official Gazette and local news media.

(3) The Registrar shall, by notice published in the Official Gazette and local news media, as soon as practicable after the first day of January in each year, a list containing the names, postal addresses, premises, registration number, type, category and class registered in, and names of partners or directors of all registered contractors remaining on the registers after the thirty first day of December of the pervious year.

Publication is prima facie evidence of registration.

19.(1) A publication under the provision of section 18 of this Act, shall be prima facie evidence that, any person's name in the register is registered under this Act, and the deletion from the register the name of any person notified by that publication, shall be prima-facie evidence that person is not registered.

(2) The register, lists and all copies or extracts which have been duly certified by the Registrar shall be accepted in all courts and tribunals or other bodies authorized to receive evidence of the facts stated in them;

(3) Any person, group of persons or institution may inspect the register and any document relating to any entry in it and may obtain from the Registrar a copy or an extract from the register for any document upon payment of a prescribed fee;

(4) No order compelling the production of the register or any document kept by the Registrar shall be issued from any court, unless it bears the seal of the court issuing the order and accompanied by statement that it is issued by a court of law.

(5) The Registrar shall, in any legal proceeding to which he or she is not a party, not be compelled:-

(a) to produce the register or any document of the content of which can be proved under subsection (1)of this section;

Qualification for registration of Contractors.

- (b) to appear as a witness to prove any entry in the register, any matter recorded in the register or any document, unless the court for special course, so ordered.

20.(1) Subject to the provisions of this Act, a person shall be eligible to make an application to the Board, in the prescribed manner and upon payment of the prescribed fees to the Board, to be registered as a contractor, if he satisfies to the Board that -

- (a) he has the minimum technical qualifications and skills prescribed by the Board for the category, type and class of contractors the registration of which is being sought;
- (b) he has the necessary experience as prescribed by the Board in works involving construction, erection, installation, conservation, alteration or any other activity which is connected with them;
- (c) his professional and general conduct has been such as, in the opinion of the Board, makes him a fit and proper person to be registered under this Act; and
- (d) he has the necessary plants and equipments for the work or works intended to be carried on;

(2) The Board may refuse to register a person as contractor if in its opinion.

- (a) that person does not meet the conditions stated in subsection (1) of this section;
- (b) that person is a practicing Architect, Engineer, Quantity Surveyor or a consulting firm providing Architectural, Engineering or quantity surveying services; or
- (c) is a person whose employment shall result into conflict of interest with his employer by being a contractor.

(3) Upon registration the person shall be issued with a certificate of registration indicating the registration number, type, category, class, date of registration and duration of registration.

(4) The certificate issued under subsection (3) of this section shall be the property of the Board and shall be withdrawn and returned to the Board upon suspension or cancellation of registration.

Temporary registration.

21.(1) A firm or person shall be eligible for temporary registration under this section, if in the opinion of the Board is fit and proper to be registered and that validity of the registration to be a maximum duration of the project and should be renewed, the Board shall grant a temporary registration where a firm or person satisfies the Board that:-

- (a) he is not a Zanzibari;
- (b) the firm has been incorporated outside Zanzibar;
- (c) the firm intends to practice in Zanzibar in the capacity of a contractor for the express purpose of carrying out a specific contract for which the firm has been contracted;
- (d) the firm has a certificate of compliance from the Registrar of Companies showing that the firm is or immediately prior entering Zanzibar was, trading as a contractor in the capacity which satisfies the Board in its fitness to serve the public as a qualified, skilled contractor and staff;
- (e) the firm has in its employment, only those expatriates whose qualification and skills are not available in Zanzibar;
- (f) the firm has lodged an affidavit with the Board to the effect that, once the contracted works are completed and the period of defects liability or maintenance has elapsed or closed down business as investor, then it shall wind up business and not engage itself in contracting business, the Board may, if it thinks fit, direct that firm be registered under this section for the duration of the contracted works.

(2) An application for registration under this section shall be in the prescribed form, accompanied by the prescribed fee, and the Board may require an applicant to appear before it for the purposes of producing documentary evidence of its competence in executing construction works immediately prior to its entry in Zanzibar.

(3) Registration of a firm under this section, shall be entitle to undertake work only for the duration or the period of contracted work which is directed by the Board in subsection (1) of this section, and on expiration of the period of the contracted works that firm shall cease to have been so registered, and shall return the registration certificate to the Board. And in case of doubt, the decision of the Board as to the completion of the specific assignment shall be conclusive.

(4) A firm under this section shall, during the duration or period of the contracted works as directed by the Board under subsection (1) of this section and in relation to things done or omitted to be done in the course of the contracted work, be treated as being duly registered under this Act as a bona fide contractor but in relation to other matters shall be treated as not so registered.

Restriction on registration on foreign firms.

22.(1) A person who is not a Zanzibari shall not be allowed to form a local contracting firm unless the majority of its shares are owned by Zanzibari(s).

(2) If the conditions referred to in subsection (1) of this section are not fulfilled, the firm or company shall be registered as a foreign firm or company.

(3) The Board shall refuse to register any firm as a contractor, if in its opinion:-

- (a) does not meet the conditions stipulated under section 20 of this Act;
- (b) it is a practicing registered Architect, Quantity Surveyor, Engineer or consulting firm providing architectural, quantity surveying or engineering services;
- (c) has a person whose resident work permit and qualifications do not allow him to carry on business as contractor;
- (d) is a person whose general and professional conduct has been such as in opinion of Board, makes him unfit and improper person to be registered under this Act;
- (e) fails to display its certificate.

Grant of licences.

23.(1) A licence shall be issued by the Board after the registration and shall be renewable annually.

(2) The licence granted and any variations or revision made by the Board in the manner to be prescribed in the regulations to be made thereof, shall register termination or diminution.

PART FOUR
CANCELLATION AND SUSPENSION OF REGISTRATION

Powers to cancel registration.

24.(1) The Board shall have power to cancel, suspend or revoke any registration issued if such registered contractor including his partners has:-

- (a) failed within a period of six months from the date of an inquiry sent by the Registrar by a registered letter to the address appearing in the register against his name, failed to notify the Registrar of his current address;
- (b) engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
- (c) requested that his name be deleted from the register, in which case that person may be required to satisfy the Board by affidavit lodge with the Registrar that no criminal proceedings or proceedings under section 26 are being, or are likely to be taken against him;
- (d) failed to pay annual subscription fees;
- (e) been found by the Board to be guilty of the misconduct according to this Act;
- (f) adjudged bankruptcy;
- (g) obtained a registration through fraud, deception or misrepresentation;
- (h) engaged in repeat acts of gross negligence, gross malpractice or gross incompetence;
- (i) engaged in professional or occupational misconduct as may be reported by the Board;
- (j) been convicted of any crime involving moral turpitude or serious crimes against the laws of Zanzibar and sentenced to imprisonment for a term exceeding six(6) months even with option of fine;
- (k) violated or failed to comply with the provisions of any act or regulation administered by the director;

- (l) incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public health, safety and welfare;
- (m) failed to meet the current registration criteria of the Board;
- (n) failed to discharge his duties, responsibilities and obligations as a contractor;
- (o) been found by the Board to be guilty of any contravention of this Act or Regulation made under this Act or of any such misconduct as is referred to in section 25 of this Act.

(2) The Registrar shall strike the name of every deleted contractor off the register and shall also delete there from any entry which has been incorrectly made or procured;

(3) Except in the circumstances specified in paragraph (a) of subsections (1) and (2) of this section, the deletion from the register, of the name of contractor shall be published in the Official Gazette and local news media and notified by the Registrar by a recorded delivery or a registered letter to the address appearing in the register against the contractor's name immediately prior to the deletion.

(4) Subject to the provision of this section, a contractor whose name has been deleted from the register, shall cease from the date of deletion, to be registered for the purpose of this Act, and shall be obliged to surrender to the Board immediately, the certificate of registration for cancellation.

(5) A sole proprietor, partners, members of the society or directors of a company shall not be allowed to register a contracting sole proprietorship, partnership, society or company for the period of five years after having been deleted as registered contractor.

Restoration to the register.

25.(1) Where the name of any contractor has been deleted from the register under section 24 (1) (o) of this Act, the name of that contractor shall not be again entered in the register except on the direction of the Board.

(2) Where the name of any contractor has been deleted from the register or registration has been suspended in terms of subsection (1) of section 26 of this Act, the Board may, either of its own motion or on application in the prescribed manner by the contractor concerned, and in either case after holding such inquiry as the Board may deem fit, direct that-

- (a) the deletion from the register be confirmed; or
- (b) the name of that contractor be restored to the register; or
- (c) the suspension of the effect of the registration of that contractor be lifted.

(3) A direction given by the Board under subsection (2) of this section may include provision for the date upon which a restoration to the register or the termination or suspension of the effect of the registration shall take effect and for the payment by the contractor concerned of the fee as a penalty, not exceeding the fee payable on an application for registration, as the Board may determine.

Powers to suspend registration etc.

26.(1) The Board shall have power to suspend any registered contractor if such registered contractor including its principals or partners:-

- (a) is convicted of any offence concerning his or her professional conduct by a court;
- (b) is found to have been guilty of any act or omission amounting to improper, disgraceful, or gross professional misconduct, after due inquiry held by the Board;
- (c) has breached the regulations or by-laws of the Board;
- (d) has a business license which has not been issued by the proper Licensing Authority responsible for trade;
- (e) has procured a business license without:-
 - (i) proof of having submitted annual returns of the previous year to the Registrar of the Companies;
 - (ii) having submitted a registration certificate of the Board to the licensing authority;
 - (iii) submitted proof of having paid the registration or annual subscription fees and other relevant taxes to the Board for the year of which the business license is being sought;

(2) In addition to the power to suspend registration given under subsection (1) of this section, the Board may:-

- (a) caution or censure a registered contractor;
- (b) direct that during the period as the Board may specify, the registration of his name shall not have effect;
- (c) take legal action against the offender.

Mandatory suspension. **27.**(1) The Board shall suspend a contractor's registration and record in the register the failure of the contractor to meet the minimal standard for registration as stipulated under this Act.

(2) For the case of a person who is subject of disciplinary proceedings, the Board shall not suspend the registration until those disciplinary proceedings are finished or in the opinion of Registrar if suspension is necessary for the public interest.

Voluntary suspension. **28.**(1) A registered contractor may by written notice request to the Registrar to suspend his or her registration for a period specified in the notice.

(2) The Registrar shall submit the notice to the Board, then the Board must suspend or authorize the registrar to suspend that person's registration and record the suspension in the register, for that specified period subject to the regulations.

(3) A person whose registration is suspended under this section may by written notice to the Registrar request the Registrar to revive the contractor's registration.

(4) The Registrar must then revive that contractor's registration unless there is some other grounds to suspend or cancel that registered contractor.

Proceedings at any inquiry. **29.**(1) Upon any inquiry held by the Board under this Act, the contractor whose conduct is being inquired into shall be entitled to appear and be heard by the Board.

(2) In relation to a disciplinary matter, the Board may:-

- (a) receive as evidence, any statement, document, information, or matter that in its opinion may assist it to deal effectively with the subject of the disciplinary matter whether or not it would be admissible in a court of law;

- (b) receive evidence on oath and for this purpose a member of the Board may administer oath;
- (c) permit a person appearing as witness before it to give evidence by tendering a written statement and verifying that statement by oath, or otherwise;
- (d) to order the production of documents.

(3) All summons and orders issued under the hand of the Chairperson or the Vice Chairperson of the Board shall be deemed to be issued by the Board.

(4) The Chairperson or, in the absence the Vice Chairperson of the Board, shall record or cause to be recorded a summary of any oral or written evidence given at an inquiry held by the Board.

(5) Subject to the provisions of this Act, and of the regulations made under section 50 of this Act the Board shall have power to regulate its own procedures at an inquiry held by it.

Disobedience to summons and refusal to give evidence.

30.(1) Any contractor who having been served with summons or order issued under this section, omits without sufficient cause-

- (a) to answer fully and satisfactorily to the best of his knowledge and belief all questions put to him by or with the concurrence of the Board; or
- (b) to produce any document in his possession or under his control which are specified in the order,

commits an offence and upon conviction is liable to a fine of not less than three hundred thousand shillings or to imprisonment for a term not exceeding one year and not less than six months or both fine and imprisonment.

(2) Any person giving evidence before the Board shall in respect of any evidence given by him or any document produced by him entitled to all privileges to which he would be entitled as a witness before the High Court.

Appeals against decisions of the Board.

31.(1) Any person who becomes aggrieved by the decision of the Board may appeal to the Minister against that decision, and if the aggrieved party dissatisfied with the decision of the Minister may appeal to the High Court.

(2) The Board may appear as respondent and be heard on any appeal against its decision and for the purposes of enabling directions to be given as to the costs of any appeal, the Board shall be deemed to be a party thereto, whether or not it shall appear at the hearing of the appeal.

PART FIVE RESTRICTION ON TRADING AS CONTRACTOR

Use of description
"Registered" and effect
of registration.

32. Every contractor whose name has been entered in the register shall, so long as his name remains in the register be entitled to adopt and use the style and title so registered.

Restrictions on carrying
on business as
contractor.

33.(1) Any person who or any firm which:-

- (a) not being a registered contractor falsely pretends to be as such;
- (b) not being entitled to do so under section 32 of this Act, uses a style or title of "Registered Contractor" or any other name, type, title or in the circumstances in which it is that such person is so registered;
- (c) not being a registered contractor, holds himself for the purpose applying for registration, whether directly or by implication to be a qualified and experienced contractor;
- (d) not being a registered contractor, trades or carries on business as contractor in Zanzibar;

commits an offence and upon conviction shall be liable to a fine of not exceeding ten percent of the contract sum or project value but not less than one percent of the contracts sum or project value of an executed contracts or contract in hand or five million shillings whichever is higher or imprisonment for a term not less than three years or to both, such fine and imprisonment.

(2) Any person who trades under the name, title or style containing any words or phrases implying "Registered Contractor" unless he is registered under this Act, as a contractor; commits an offence and upon conviction is liable to a fine not exceeding ten percent of the contract sum or project value of an executed contract or contract in hand or five million shillings whichever is higher or an imprisonment for a term not less than three years or both fine and imprisonment.

Bodies of persons
operating as contractor.

34.(1) A persons whether corporate or incorporated, shall not carry on the business of a contractor unless at least one of the partners or directors who shall also be shareholder has, as prescribed by the Board, the required technical qualifications, skills and experience necessary to enable him or her to discharge in satisfactory manner the obligations which he or the firm may reasonably be expected or called upon to undertake as a contractor belonging to the category, type and class in which he or the firm intends to carry on the business of contractors; and that body or persons is duly registered.

(2) Where the director who is also a shareholder or partner who has the required technical qualifications, skills and experience in a body of persons whether corporate or incorporated, carrying on business as a contractor dies, such body or persons may, notwithstanding the provisions of subsection (1) of this section, be allowed to complete the project or the contracts in hand only, as if of this section such legal representatives were registered contractors.

(3) The provisions of this Act shall not be construed as entitling any body or persons, whether corporate or incorporate, to be registered as, or as empowering the Registrar to register any body or persons as, registered contractor.

(4) The Board may refuse to register any body of persons as a contractor or direct the deletion from the register of the name of any body or persons registered as such if it satisfied that none of the directors or partners, as the case may be, is a person who, if he had applied to be registered as a contractor in his individual capacity would have been accepted for registration.

(5) Any body of person who carries on business as contractor in contravention of any of the provisions of this section, commits an offence and upon conviction is liable to a fine not exceeding five percent of the contract sum or project value whichever higher or an imprisonment for a term of not less than three years or both fine and imprisonment.

Carrying on business or
trading as Contractor.

35. For the purpose of this Act, a person shall be deemed to be carrying on business or trading as a contractor if he or she, for valuable consideration or reward, offers or renders his services as contractor, to another person, whether such services are offered or rendered under a labor contract, contract of service, a contract for service or otherwise.

PART SIX
ACTIVITIES OF THE BOARD AND FINANCIAL PROVISIONS

Board may delegate its functions.

36. The Board may delegate its functions under this Act to any officer or committee of the Board.

Accounts and Auditor.

37.(1) The Board shall cause to be kept proper books of accounts and shall, as soon as practicable after the end of each financial year, cause these accounts relating to that financial year together with a statement of income and expenditure the assets and liabilities of the Board on the last day of that financial year, to be submitted to audit by duly registered and authorized auditor.

(2) Copies of the statements referred to in the subsection (1) of this section and a copy of auditor's report shall be forwarded to the Minister.

(3) The Minister, shall lay before the House of Representatives the annual report with the audited accounts and report of the Board.

Registrar's Report.

38. The Registrar shall at the end of each financial year, prepare a report on the activities of the Board during that financial year and submit that report to the Board.

Funds of the Board.

39. The funds and resources of the Board shall consists of:-

- (a) registration and annual licence fees paid by registered contractors;
- (b) such sums as the Board may receive by way of grant or loan from any person or organization;
- (c) such sums as the Board may, from time to time, borrow;
- (d) such sums as may, in any manner, become payable to or vested in the Board either under the provisions of this Act or any other written law, or incidental to carry out of its functions.
- (e) such sums as the Board may provide for the purposes of presenting it to the House of Representatives in a form of Government budget.

Power to invest.

40. The Board shall have power to invest its funds in such investment in accordance with the laws of Zanzibar in relation to the Investment.

Minister's directions.

41. The Minister may by writing under his hand give the Board directions of a general or specific nature in accordance with this Act and the Board shall comply with every such direction.

Proceedings of the Board not be invalid by reason of irregularity.

42. No act or proceedings of the Board shall be invalid by reason only of the members not being complete at the time of such act, or proceedings, or of any defect in the appointment of any member, or of the fact that any member was at the time in question disqualified or disentitled to act as such.

Disciplinary penalties.

43.(1) In any case involving disciplinary matters, the Board may:-

(a) do both of the following things:

(i) cancel the contractor registration and direct the Registrar to remove the person's name from the register; and

(ii) order that, the person may not apply to be re-registered before the expiry of a specified period.

(b) suspend the contractor registration for a period of no more than 12 months or until the person meets specified conditions relating to the registration but, in any case, not for a period of more than 12 months and direct the Registrar to record the suspension in the register;

(c) restrict the type of building work or inspection work that the contractor may carry out or supervise under the class of registration that he or she holds and direct the Registrar to record the restriction in the register;

(d) order that the person be censured;

(e) order that the person undertake training specified in the order;

(f) order that the contractor to pay a fine as may be prescribed in the regulations.

(2) The Board may take only one type of action in subsection (1)(a) to (d) in relation to a case, except that it may impose a fine under subsection (1)(f) in addition to taking the action under subsection (1)(b) or (d).

(3) No fine may be imposed under subsection (1)(f) in relation to an act or omission that constitutes an offence for which the person has been convicted by a Court.

(4) In any case the Board may order that the person must pay the costs and expenses of, and incidental to, the inquiry by the Board.

(5) In addition to requiring the Registrar to notify in the register an action taken by the Board under this section, the Board may publicly notify the action in any other way it thinks fit.

Grounds for disciplinary action.

44.(1) The Board may in relation to a matter raised by a complaint or by its own inquiries take any of the actions referred to in section 43 of this Act if it is satisfied that-

- (a) the registered contractor has been convicted, whether before or after he is registered, by any Court in Zanzibar or elsewhere of any offence punishable by imprisonment for a term of 6 months or more with or without the option of fine; and
- (b) a registered contractor has carried out or supervised building work or building inspection work in a negligent or incompetent manner; or
- (c) a registered contractor has carried out or supervised building work or building inspection work of a type that cannot be carried out or supervised by persons who hold the class of registration that the registered contractor holds; or
- (d) a registered contractor has carried out or supervised building work or building inspection work that does not comply with a building consent; or
- (e) a registered contractor has, for the purpose of obtaining registration either for himself or for any other person:-
 - (i) either orally or in writing, made any declaration or representation, knowing it to be false or misleading in a material particular; or
 - (ii) produced to the Registrar or made use of any document, knowing it to contain a declaration or representation referred to in subparagraph (i); or

(iii) produced to the Registrar or made use of any document, knowing that it was not genuine.

(2) The Board may take the action whether or not the person is still a licensed building practitioner.

Complaints about registered contractors.

45.(1) Any person may complain to the Board about the conduct of Registered contractor in accordance with the regulations.

(2) A complaint or inquiry, and any decision on the complaint or inquiry, may relate to a person who is no longer a registered contractors but who was a registered contractor at the time of the relevant conduct.

Board shall investigate complaints.

46. The Board shall, as soon as practicable after receiving a Complaint, investigate the complaint and determine whether or not to proceed with it.

PART SEVEN MISCELLANEOUS PROVISIONS

Offences.

47. Any person who:-

(a) fraudulently makes, or cause or permits to be made, a false or incorrect entry in the register or any copy thereof;
or

(b) fraudulently procures or attempts to procure, whether for himself or for any other person, registration as a contractor or trading license for a contractor; or

(c) knowingly or willfully makes any statement which is false in a material particular, or which is misleading with a view to gain any advantage, concession or privilege under this Act, whether for himself or for any other person;

commits an offence and upon conviction shall be liable to a fine of not exceeding one million shillings and not less than five hundred thousand shillings or to imprisonment for a term of not less than one year or to both, such fine and imprisonment.

Profits.

48.(1) Every registered Contractor shall be expected and bound to come up with rates whose built in profit margin shall be reasonable notwithstanding any provision to the contrary in any regulation or by-law of any society, organization or association of which he is a member.

(2) Any provision in any regulations or by-laws of any society, organization or association of contractors, incorporated, registered or founded, providing for a minimum profit margin which is bigger than the margin deemed reasonable by the Board for services rendered by a contractor, who is a member thereof, shall not bind that member in relation to any services rendered in Zanzibar; and such provision in any regulations or by-laws shall not be put forward by any member as a ground for providing or claiming a profit margin at a rate higher than the rate prescribed, approved or deemed reasonable by the Board or by authorized arbitrators or with the consent of the parties in any dispute in relation to the profit margin.

Board to make By-laws.

49. Without prejudice to the generality of the proceeding provisions, the Board may make by-laws with the consent of the Minister.

Minister to make regulations.

50. The Minister may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

PASSED by the House of Representatives on 1st day of April, 2008.

{IBRAHIM MZEE IBRAHIM}

Clerk of the House of the Representatives of Zanzibar

ZANZIBAR

August, 2008