Changes to Legislation: as of 12 March 2024, this Act is up to date with all changes known to be in force.

Number 21 *of* 2007

BUILDING CONTROL ACT 2007

REVISED

Updated to 29 August 2022

This Revised Act is an administrative consolidation of the *Building Control Act 2007*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Electoral Reform Act 2022* (30/2022), enacted 25 July 2022, and all statutory instruments up to and including the *Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022 (Commencement) Order 2022* (S.I. No. 429 of 2022), made 23 August 2022, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

Number 21 *of* 2007

BUILDING CONTROL ACT 2007

REVISED

Updated to 29 August 2022

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ACTS REFERRED TO

Building Control Act 1990	1990, No. 3
European Communities Act 1972	1972, No. 27
Petty Sessions (Ireland) Act 1851	1851, Vic., c. 93

Number 21 *of* 2007

BUILDING CONTROL ACT 2007

REVISED

Updated to 29 August 2022

AN ACT TO AMEND AND EXTEND THE BUILDING CONTROL ACT 1990; TO REGULATE THE USE OF THE TITLES "ARCHITECT", "QUANTITY SURVEYOR" AND "BUILDING SURVEYOR"; TO IMPLEMENT CERTAIN PROVISIONS OF DIRECTIVE 2005/36/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 7 SEPTEMBER 2005 ON THE RECOGNITION OF PROFESSIONAL QUALIFICATIONS AND TO PROVIDE FOR RELATED MATTERS.

[21*st April*, 2007]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Editorial Notes:

E1 Obligation imposed on developers of multi-unit developments to furnish to owners' management company confirmation that the development has been completed in accordance with collectively cited *Building Control Acts 1990 and 2007* (1.04.2011) by *Multi-Unit Developments Act 2011* (2/2011), s. 31(2) and sch. 3 par. 1(b), S.I. No. 95 of 2011.

E2 Power granted to Court, in cases to which *Multi-Unit Developments Act 2011* (2/2011), s. 24(1)(a) applies, to make an order directing the developer of a multi-unit development to complete the multi-unit development in accordance with collectively cited *Building Control Acts 1990 and 2007* (1.04.2011) by *Multi-Unit Developments Act 2011* (2/2011), s. 24(5)(I)(iii), S.I. No. 95 of 2011.

E3 Transfer of ownership of an interest in the relevant parts of the common areas of a multi-unit development confirmed not to relieve persons who would otherwise have been responsible from the duty, obligation or responsibility to ensure completion of the development in compliance with collectively cited *Building Control Acts 1990 and 2007* (1.04.2011) by *Multi-Unit Developments Act 2011* (2/2011), s. 7, S.I. No. 95 of 2011.

E4 Obligation imposed on persons to whom *Multi-Unit Developments Act 2011* (2/2011), s. 3, applies to ensure that, prior to the transfer of his or her interest in a residential unit in a multi-unit development, a certificate from a suitably qualified person that the relevant parts of the development have been constructed in compliance with the fire safety certificate issued pursuant to the collectively cited *Building Control Acts 1990 and 2007* has been furnished to the owners' management company (1.04.2011) by *Multi-Unit Developments Act 2011* (2/2011), s. 3(1)(c), S.I. No. 95 of 2011.

PART 1

Preliminary and General

Short title, collective citation, construction and commencement.

1.— (1) This Act may be cited as the Building Control Act 2007.

(2) The Building Control Act 1990 and this Act may be cited together as the Building Control Acts 1990 and 2007 and shall be construed together as one.

(3) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Annotations

Editorial Notes:

E5 Power pursuant to section exercised (30.09.2009) by *Building Control Act 2007 (Commencement) Order 2009* (S.I. No. 352 of 2009).

2. The 30 September 2009 is appointed as the day on which the provisions of sections 5 and 6 of the *Building Control Act 2007* shall come into operation.

E6 Power pursuant to section exercised (1.03.2008 and 1.05.2008) by *Building Control Act 2007 (Commencement) Order 2008* (S.I. No. 50 of 2008).

2. The 1 March 2008 is appointed as the day on which the following provisions of the *Building Control Act 2007* (21/2007) shall come into operation, namely Part 1 and Part 2, except the provisions of Section 5 and 6 of Part 2.

3. The 1 May 2008 is appointed as the day on which the following provisions of the *Building Control Act 2007* (21/2007) shall come into operation, namely Parts 3 to 7.

Interpretation.

2.— (1) In this Act—

"Act of 1990" means the Building Control Act 1990;

"adaptation period" means an adaptation period of such duration as the Admissions Board determines in accordance with the Directive;

"Admissions Board" means an Admissions Board established under *section 13*, *28* or *42*, as the context requires;

"Agreement establishing the World Trade Organisation" means the Agreement establishing the World Trade Organisation done at Marrakesh on 15 April 1994 as amended or supplemented by any protocol to that Agreement which is for the time being in force in the State;

"Appeals Board" means an Appeals Board established under *section 24*, *38* or *52*, as the context requires;

"aptitude test" means an aptitude test of such character as the Admissions Board determines in accordance with the Directive;

F1[**[**"Directive" means Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005[1], as amended by Council Directive 2006/100/EC of 20 November 2006[2], Commission Regulation (EC) No. 1430/2007 of 5 December 2007[3], Commission Regulation (EC) No. 755/2008 of 31 July 2008[4], Regulation (EC) No. 1137/2008 of the European Parliament and of the Council of 22 October 2008[5],

[1] OJ No. L 255, 30.9.2005, p. 22.
[2] OJ No. L 363, 20.12.2006, p. 141.
[3] OJ No. L 320, 6.12.2007, p. 3.
[4] OJ No. L 205, 1.8.2008, p. 10.
[5] OJ No. L 311, 21.11.2008, p. 1.

Commission Regulation (EC) No. 279/2009 of 6 April 2009[6], Commission Regulation (EU) No. 213/2011 of 3 March 2011[7], the Treaty concerning the accession of the Republic of Croatia to the European Union done at Brussels on the 9th day of December 2011[8], Commission Regulation (EU) No. 623/2012 of 11 July 2012[9] and Council Directive 2013/25/EU of 13 May 2013[10];**]**

"EEA Agreement" means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as amended for the time being;

"EEA measure" means a measure or decision taken by the Joint Committee under the EEA Agreement;

"member of the World Trade Organisation" means a party to the Agreement establishing the World Trade Organisation;

"Member State" means a Member State of the European Union and includes the following:

(*a*) on the State being required to implement an EEA measure having an effect corresponding to that of the Directive or any other Directive adopted by an institution of the European Union for the recognition of professional education and training, a Member State of the EEA;

(*b*) the Swiss Confederation;

"Member State of the EEA" means a state (other than a Member State of the European Union) that is a contracting party to the EEA Agreement;

"Minister" means the Minister for the Environment, Heritage and Local Government;

"poor professional performance", in relation to a registered professional, means any failure of the registered professional to meet the standards of competence that may reasonably be expected of registered professionals practising the profession concerned;

"practical experience assessment procedures" means the procedures under, as the context requires—

(*a*) *sections 21(4)* and *(5)* and *22*,

(*b*) *section 36*, or

(*c*) *section 50*;

"prescribed" means prescribed by regulations made by the Minister under this Act;

"Professional Conduct Committee" means a Professional Conduct Committee established under *section 23*, *37* or *51*, as the context requires;

"professional misconduct", in relation to a registered professional, means any act, omission or pattern of conduct of the registered professional that—

(*a*) is in breach of the code prepared by the relevant registration body, or

(*b*) if the registered professional has been granted by a body established in a state, other than the State, a licence, certificate or registration relating to the practice of the profession concerned, is a breach of the standard of conduct or performance that applies to a person holding that licence, certificate or registration and that corresponds to a standard in the code referred to in *paragraph (a)*;

[6] OJ No. L 93, 7.4.2009, p. 11.
[7] OJ No. L 59, 4.3.2011, p. 4.
[8] OJ No. L 112, 24.4.2012, p. 10.
[9] OJ No. L 180, 12.7.2012, p. 9.
[10] OJ No. L 158, 10.6.2013, p. 368.

"registered professional" means a person who is registered in the register under *Part 3*, *4* or *5*, as the context requires;

"Registrar" means a person appointed under *section 19*, *33* or *47*, as the context requires;

"registration body" means, with respect to—

(*a*) *Part 3*, the F2**[**Royal Institute of the Architects of Ireland**]**,

(*b*) *Parts 4* and *5*, the F3**[**the Society of Chartered Surveyors Ireland**]**,

(*c*) *Parts 6* and *7*, each of the bodies referred to in *paragraphs (a)* and *(b)*, with respect to such body performing its functions for the purpose of the relevant Parts;

"relevant measure" means—

(*a*) any EEA measure having an effect corresponding to that of the Directive or any other Directive adopted by an institution of the European Union for the recognition of professional education and training, and

(*b*) a measure that is in force by virtue of the Swiss Confederation Agreement;

"specified", in relation to a fee or an amount of a fee, means specified under *section 62*;

"Swiss Confederation Agreement" means the agreement between the European Union and the Swiss Confederation on the free movement of persons, signed at Luxembourg on 21 June 1999;

"Technical Assessment Board" means a Technical Assessment Board established under *section 21*, *35* or *49*, as the context requires;

"World Trade Organisation" means the organisation established under the Agreement establishing the World Trade Organisation.

(2) For the avoidance of doubt, the definition of "registered professional" in *subsection (1)* does not have the effect of requiring any class of person falling within that definition to be the subject of any designation or other specification in regulations under the Act of 1990 of a person or a class of person for any purpose of those regulations.

(3) A word or expression used in *Part 3*, *4*, *5* or *7* and which is also used in the Directive has the same meaning in that Part as it has in the Directive.

Annotations

Amendments:

F1 Substituted (19.12.2014) by *European Union (Recognition of Professional Qualifications) (Amendment of Building Control Act 2007) Regulations 2014*, S.I. No. 616 of 2014.

F2 Substituted (31.01.2019) by *Local Government Act 2019* (1/2019), s. 48(a), S.I. No. 20 of 2019.

F3 Substituted (29.08.2022) by *Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022* (15/2022), s. 66, S.I. No. 429 of 2022.

PART 2

Amendment of Building Control Act 1990

Amendment of section 1 (interpretation) of Act of 1990.

3.— Section 1(3) of the Act of 1990 is amended by substituting ", paragraph or subparagraph" for "or paragraph" in both places where it occurs.

Amendment of section 3 (building regulations) of Act of 1990.

4.— Section 3 of the Act of 1990 is amended in subsection (2)—

(*a*) in paragraph (*e*), by substituting "practice;" for "practice; and", and

(*b*) by inserting the following paragraph after paragraph (*e*):

"(*ea*) making provision for building practices that would assist in preventing or detecting crime; and".

Amendment of section 6 (building control regulations) of Act of 1990.

5.— Section 6 of the Act of 1990 is amended—

(*a*) in subsection (2)(*a*)(ii), by deleting "and", after "provisions of building regulations as may be prescribed,",

(*b*) in subsection (2)(*a*)(iii), by substituting "the requirements of building regulations," for "the requirements of building regulations;",

(*c*) in subsection (2)(*a*), by inserting the following after subparagraph (iii):

"(iv) the submission (before grant of the relevant fire safety certificate) of a notice in writing to a building control authority (in this Act referred to as a '7 day notice') by a person who intends to commence work on the construction of a building or an extension of or a material alteration to a building, giving not less than 7 days notice of that person's intention to carry out those works, and requiring that such notice shall be accompanied by a valid application for a fire safety certificate,

(v) the submission to a building control authority by a person who submits a 7 day notice of a statutory declaration (in this Act referred to as a '7 day notice statutory declaration') made by that person stating that the application for the relevant fire safety certificate has been completed in all respects and complies with the relevant provisions of the building control regulations, that any works that have been commenced before the grant of such certificate will comply with the building regulations and that the person will, within such period as may be specified by the building control authority, carry out any modification of such works that is required by or under the fire safety certificate, including any condition attached to it, when it is granted by the building control authority concerned,

(vi) where an application for a fire safety certificate in respect of the construction of a building or an extension of or a material alteration to a building has been submitted before planning permission has been granted in respect of such construction, extension or alteration, the submission, if required by the subsequent grant of such planning permission, of a further application to a building control authority for a fire safety certificate (in this Act referred to as a 'revised fire safety certificate') for the purpose of ensuring that the revised design arising from the grant of planning permission (including any condition attached to

it) complies with the provisions of building regulations relating to fire safety,

(vii) where work has been commenced or completed in respect of the construction of a building or an extension of or a material alteration to a building, and no application has been made for a fire safety certificate that is required under building control regulations for such construction, extension of or material alteration to a building, the submission to a building control authority of an application for a certificate (a 'regularisation certificate') which shall be accompanied by drawings of the relevant works (as they have been constructed) and a statutory declaration from the applicant stating that such works comply with the provisions of the building regulations relating to fire safety, and enabling the authority to specify in a regularisation certificate that the regularisation certificate shall not have effect unless, within 4 months after its being granted, any conditions attached to it by the authority (including conditions as to the carrying out of additional works) are complied with,

(viii) a building control authority to inspect (before it decides whether to grant such a certificate) a building in respect of which an application has been submitted for a regularisation certificate and enabling the authority to grant, if it considers it appropriate, in its discretion, to do so, a regularisation certificate specifying that in its opinion the works, as constructed in accordance with plans, documents and information submitted with the application for the certificate, comply with the provisions of building regulations relating to fire safety, subject to compliance (within the period of 4 months there mentioned) with any conditions attached to the certificate of the kind mentioned in subparagraph (vii),

(ix) the submission to a building control authority of an application for a certificate of compliance with respect to requirements under the building regulations for provision of access to a building for persons with disabilities (a 'disability access certificate') and enabling the building control authority to grant such certificate if in its opinion the design of the building or the extension of or material alteration to the building in respect of which the submission is made would comply (subject to any relevant dispensation or relaxation already granted under section 4 or 5 or to any appeal under section 7 which has been allowed) with the relevant requirements of the building regulations,

(x) the submission to a building control authority of an application for a fire safety certificate (in this Act also referred to as a 'revised fire safety certificate') or a disability access certificate (in this Act referred to as a 'revised disability access certificate') if significant revision is made to the design or works of a building or an extension of or a material alteration to a building in respect of which a fire safety certificate or a disability access certificate has been granted by a building control authority, and

(xi) that a new building, or an existing building in respect of which an extension or a material alteration has been made,

shall not be opened, operated or occupied or permitted to be opened, operated or occupied—

(I) unless a fire safety certificate or disability access certificate (or, as the case may require, a revised certificate of either kind) or a regularisation certificate required by regulations under this Act has been granted by the building control authority in relation to the building, or

(II) if such an appeal is made to it, pending the determination by An Bord Pleanála of an appeal under section 7 relating to a refusal to grant any of the certificates or revised certificates referred to in clause (I) or the attachment of conditions to any of them;",

(*d*) in subsection (2)(*b*), by substituting the following for subparagraph (i):

"(i) the form and content of—

(I) certificates of compliance,

(II) applications for fire safety certificates, revised fire safety certificates, regularisation certificates, disability access certificates and revised disability access certificates,

(III) each of the certificates referred to in clause (II),

(IV) 7 day notices and 7 day notice statutory declarations,

(V) applications for certificates of approval and certificates of approval,",

(*e*) in subsection (2)(*b*)(ii), by inserting "7 day notices, 7 day notice statutory declarations, revised fire safety certificates, regularisation certificates, disability access certificates, building energy rating certificates, revised disability access certificates" after "fire safety certificates,",

(*f*) in subsection (2)(*h*)(ii), by inserting ", 7 day notices, 7 day notice statutory declarations, revised fire safety certificates, regularisation certificates, disability access certificates, revised disability access certificates" after "fire safety certificates",

(*g*) in subsection (2), by inserting the following paragraph after paragraph (*h*):

"(*ha*) the exemption, in specified circumstances, from fees referred to in paragraph (*h*);",

(*h*) in subsection (2)(*k*), by substituting "regulations;" for "regulations.",

(*i*) by inserting after subsection (2) the following:

"(2A) References in subsection (2)(*a*)(iv) to (xi) to a material alteration of a building include references to a material change of use of a building and, for the purposes of those provisions as they apply in relation to such a material change of use, references in those provisions to—

(*a*) work,

(*b*) relevant works, or

(*c*) the design of works,

shall, in so far as they are applicable to such a material change of use, be construed as references to—

(i) the doing of the acts that constitute the material change of use or, as appropriate, those acts when they are done, or

(ii) in the case of references to the design of works, the various aspects of the material change of use or, as appropriate, any particular aspect of that change of use,

and references to construction of works and cognate references shall be construed accordingly.",

(*j*) in subsection (5), by inserting ", 7 day notice, revised fire safety certificate, regularisation certificate, disability access certificate, revised disability access certificate" after "fire safety certificate" in both places where it occurs in that subsection, and

(*k*) in subsection (6), by inserting ", 7 day notice, revised fire safety certificate, regularisation certificate, disability access certificate, revised disability access certificate" after "fire safety certificate".

Amendment of section 7 (appeals) of Act of 1990.

6.— Section 7 of the Act of 1990 is amended—

(*a*) in subsection (1)—

(i) in paragraph (*c*), by substituting "approval, or" for "approval,", and

(ii) by inserting the following paragraphs after paragraph (*c*):

"(*d*) section 6(2)(*a*)(vii), for a regularisation certificate, or

(*e*) section 6(2)(*a*)(ix), for a disability access certificate,",

and

(*b*) in subsection (3), by deleting paragraph (*c*).

Amendment of Act of 1990 — new sections 7A and 7B.

7.— The Act of 1990 is amended by inserting the following after section 7:

"Fees in respect of an appeal.

7A.— (1) Subject to the approval of the Minister, An Bord Pleanála (hereafter in this section referred to as 'the Board') may determine that fees shall be payable in relation to appeals under section 7 and, subject to subsection (2), such a fee so determined shall be paid to the Board by the person making the appeal under section 7 at such time as the Board specifies.

(2) The power of the Board in relation to fees referred to in subsection (1) includes a power of the Board—

(*a*) to determine that different such fees shall be payable in respect of different classes of appeal under section 7,

(*b*) to exempt a person from the requirement to pay any such fee in such circumstances as it determines, and

(*c*) to remit or refund in whole or in part any such fee that has been paid in such circumstances as it determines,

and the exercise of the power under paragraph (*b*) or (*c*) (as distinct from the determination of the circumstances in which the power shall be exercisable) shall not require the approval of the Minister.

(3) The Board shall review the fees determined under subsection (1) from time to time, but at least every three years, having regard to any change in the consumer price index since the determination of the fees for the time being in force, and may amend the fees to reflect the results of that review, without the necessity of the Minister's approval under subsection (1).

(4) For the purposes of this section, ' change in the consumer price index' means the difference between the All Items Consumer Price Index Number last published by the Central Statistics Office before the date of the determination under this section and the said number last published before the date of the review under subsection (3), expressed as a percentage of the last-mentioned number.

(5) Where the Board determines or amends fees in accordance with this section, it shall give notice of the fees in at least one newspaper circulating in the State, not less than 8 weeks before the fees come into effect.

Provision with respect to amendment of this Act by S.I. No. 872 of 2005.

7B.— The Minister shall be deemed always to have had the power to make the regulations under section 3 of the European Communities Act 1972 entitled the 'European Communities (Energy Performance of Buildings) Regulations 2005' (S.I. No. 872 of 2005) and, accordingly—

(*a*) the amendment of section 3(2) purported to have been made by those Regulations shall be deemed to have been validly made and to have been in operation as and from the date those Regulations were purported to have been made, and

(*b*) the Building Regulation (Amendment) Regulations 2005 (S.I. No. 873 of 2005) made in the purported exercise of the powers conferred by sections 3 and 18 shall be deemed to have been validly made and to have been in operation as and from the time that those Regulations provided that those Regulations were to come into operation.".

Amendment of section 8 (enforcement notice) of Act of 1990.

8.— Section 8(4) of the Act of 1990 is amended—

(*a*) in paragraph (*b*), by substituting "that may be required by the notice;" for "that may be required by the notice.", and

(*b*) by adding the following after paragraph (*b*):

"(*c*) require a person on whom the notice is served to pay to the building control authority the costs and expenses reasonably incurred by the authority in relation to the investigation and detection of the matters, the subject of the notice, the service of the notice and the preparation and giving of any warnings before the service of the notice, including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers,

and, as regards the costs and expenses referred to in paragraph (*c*), in default of their payment, the authority may, subject to section 9 and without prejudice to subsection (8), recover the costs and expenses as a simple contract debt in any court of competent jurisdiction.".

Amendment of section 9 (application to District Court in relation to enforcement notice) of Act of 1990.

9.— Section 9 of the Act of 1990 is amended by inserting the following after subsection (3):

"(3A) If the court makes a determination to which subsection (3)(*a*) or (*b*) applies, it shall, unless it is satisfied that there are special and substantial reasons for not doing so, order the applicant to pay to the building control authority concerned the costs and expenses, as measured by the court, incurred by the authority—

(*a*) in appearing and adducing evidence at the hearing, including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers, and

(*b*) in so far as they have not been recouped pursuant to the provision (if any) of the enforcement notice referred to in section 8(4)(*c*), in relation to the investigation and detection of the matters to which the application relates, including costs incurred in respect of remuneration and expenses as aforesaid.".

Amendment of section 12 (order of High Court in relation to buildings and works) of Act of 1990.

10.— Section 12 of the Act of 1990 is amended—

(*a*) in subsection (1) by substituting "the building control authority concerned may apply to the High Court or the Circuit Court for an order" for "the building control authority concerned may apply to the High Court for an order",

(*b*) by inserting the following after subsection (1):

"(1A) Where the construction of any building or works to which building regulations apply is or has been commenced or completed and in respect of which—

(*a*) a fire safety certificate, a disability access certificate or a regularisation certificate is required to be granted and such construction—

(i) is or has been commenced without the fire safety certificate, disability access certificate or regularisation certificate having been granted, or

(ii) is or has been completed without the fire safety certificate, disability access certificate or regularisation certificate having been granted,

or

(*b*) an enforcement notice has not been complied with,

the building control authority concerned may apply to the High Court or the Circuit Court for an order requiring the removal, alteration or making safe of any structure, service, fitting or equipment, or the discontinuance of any works or restricting or prohibiting the use of the building until the fire safety certificate, disability access certificate or regularisation certificate has been granted and complied with or the enforcement notice has been complied with.",

(*c*) in subsection (2) by substituting "and where such an application is made, the High Court or the Circuit Court, as the case may be, may" for "and when such an application is made, the High Court may",

(*d*) by inserting the following after subsection (2):

"(2A) If the High Court or the Circuit Court makes an order under this section providing for any of the matters referred to in subsection (1) or (1A), it shall, unless it is satisfied that there are special and substantial reasons for not doing so, order the person against whom the order is made to pay to the building authority concerned the costs and expenses, as measured by the court, incurred by the authority—

(*a*) in relation to the application under this section, including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers, and

(*b*) in so far as they have not been recouped by any other means provided under this Act, in relation to the investigation and

detection of the matters to which the application relates and the preparation and giving of any warnings before the making of the application, including costs incurred in respect of remuneration and expenses as aforesaid.",

(*e*) in subsection (3) by substituting "Any order made by the High Court or the Circuit Court under this section" for "Any order made by the High Court under this section", and

(*f*) by inserting the following after subsection (3):

"(4) (*a*) An application under this section to the Circuit Court shall be made to the judge of the Circuit Court for the circuit in which the land which is the subject of the application is situated.

(*b*) The Circuit Court shall have jurisdiction to hear and determine an application under this section where the market value of the land which is the subject of the application does not exceed €3,000,000.

(*c*) The Circuit Court may, for the purposes of paragraph (*b*), in relation to land that has not been given a market value or is the subject with other land of a market value, determine that its market value would exceed, or would not exceed, €3,000,000.

(*d*) Where the market value of any land which is the subject of an application under this section exceeds €3,000,000, the Circuit Court shall, if an application is made to it in that behalf by any person having an interest in the proceedings, transfer the proceedings to the High Court, but any order made or act done in the course of such proceedings before the transfer shall be valid unless discharged or varied by the High Court by order.

(*e*) In this subsection ' market value ' means, in relation to land, the price that would have been obtained in respect of the unencumbranced fee simple were the land to have been sold on the open market, in the year immediately preceding the bringing of the proceedings concerned, in such manner and subject to such conditions as might reasonably be calculated to have resulted in the vendor obtaining the best price for the land.".

Amendment of section 17 (penalties) of Act of 1990.

11.— Section 17 of the Act of 1990 is amended—

(*a*) in subsections (1) and (2)(*a*)—

(i) by substituting "€5,000" for "£800", and

(ii) by substituting "€500" for "£150",

(*b*) in subsection (2)(*b*) by substituting "€50,000" for "£10,000", and

(*c*) in subsection (5) by substituting "under this Act" for "to which subsection (1) applies".

Amendment of Act of 1990 — new sections 17A and 17B.

12.— The Act of 1990 is amended by inserting the following after section 17:

"Payment of fines to building control authority.

17A.— Where a court imposes a fine or affirms or varies a fine imposed by another court for an offence under this Act in proceedings brought by a building

control authority, it shall, on application of the building control authority (made before the time of such imposition, affirmation or variation), provide by order for the payment of the amount of the fine to the building control authority and such payment may be enforced by the authority as if it were due to it on foot of a decree or order made by the court in civil proceedings.

Costs of prosecution, etc.

17B.— On convicting a person of an offence under this Act in proceedings brought by a building control authority, the court shall, unless it is satisfied that there are special and substantial grounds for not doing so, order the person to pay to the authority the costs and expenses, as measured by the court, incurred by the authority in relation to the investigation, detection and prosecution of the offence, including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers.

Evidential value of electronically stored information.

17C.— In any proceedings under this Act, a certificate issued by a building control authority purporting to be a printout of data stored by the authority in electronic format or data stored in photographic, digitised or other modern format, being, in either case, data relating to the performance by the authority of any function under this Act or to any plans, documents or information submitted to it under this Act or regulations thereunder, shall have evidential value.".

PART 3

Registration of Architects

Annotations

Editorial Notes:

E7 Persons whose names are on the register for architects maintained pursuant to Part specified as prescribed for the purpose of *Multi-Unit Developments Act 2011* (2/2011), s. 3 (2.03.2011) by *Multi-Unit Developments Act 2011 (Section 3) (Prescribed Persons) Regulations 2011* (S.I. No. 96 of 2011).

Registration body and Admissions Board (*Part 3*).

13.— (1) The F4**[**Royal Institute of the Architects of Ireland**]** shall be the registration body for the purposes of this Part.

(2) For the purposes of the Directive, the registration body is the competent authority in the State as respects architects.

(3) The registration body shall establish an Admissions Board for the purpose of registering persons under this Part.

(4) The Admissions Board shall consist of a chairperson and 7 ordinary members, the latter appointed by the registration body as follows:

(*a*) 3 architects nominated for such appointment by the registration body;

(*b*) 4 persons nominated for such appointment by the Minister, being persons who are not architects.

F5**[**(5) The chairperson of the Admissions Board shall be a solicitor, a barrister or a former judge of the Circuit Court, High Court, Court of Appeal or Supreme Court who shall be appointed as chairperson by the Minister.**]**

Annotations

Amendments:

F4 Substituted (31.01.2019) by *Local Government Act 2019* (1/2019), s. 48(b), S.I. No. 20 of 2019.

F5 Substituted (28.10.2014) by *Court of Appeal Act 2014* (18/2014), s. 67(a), S.I. No. 479 of 2014.

Registration of architects.

14.— (1) The registration body shall establish a register for architects (the "register").

(2) Each of the following is eligible for registration in the register:

(*a*) a graduate of—

(i) the National University of Ireland,

(ii) the Dublin Institute of Technology, or

(iii) such other educational body as may be prescribed,

who has received from it in any year prior to 2005 the degree of Bachelor of Architecture or the Diploma in Architecture of degree standard or in 2005 or any subsequent year the degree of Bachelor of Architecture (Honours), or such other degree, diploma or other qualification as may be prescribed and who, in each case—

(I) has passed a professional practice examination specified by the body referred to in *subparagraph (i)*, *(ii)* or *(iii)*, as the case may be, or

(II) can demonstrate that he or she has 7 years of post-graduate experience of performing duties commensurate with those of an architect such as would entitle the person to seek the grant of an exemption by the body referred to in *subparagraph (i)*, *(ii)* or *(iii)*, as appropriate, from having to undergo the examination referred to in *clause (I)*;

(*b*) a person who is a fellow or member of the registration body;

(*c*) a person eligible for such registration by virtue of *section 15* or *16* (which relate to holders of qualifications from other states);

(*d*) a person in respect of whom a notice in writing, dated 7 January 1997, 13 March 1997 or 11 June 1997, was sent by the Minister (whether to the person or to an organisation representing the person in the matter) stating that the person was successful in his or her application to be included in the relevant list;

(*e*) a person who has been employed in the State for at least 7 years under the supervision of an architect (who is eligible for registration under this section) and who, as part of a social betterment scheme or part-time third level course, attains a certificate or diploma of degree standard equivalent to any degree, diploma or qualification referred to in *paragraph (a)* and who has passed a professional practice examination specified by a body referred to in *subparagraph (i)*, *(ii)* or *(iii)* of that paragraph;

(*f*) a person who—

(i) has at least 7 years' practical experience of performing duties commensurate with those of an architect in the State,

(ii) is at least 35 years of age, and

(iii) has passed a prescribed register admission examination;

(*g*) a person (not being a person who is eligible for registration pursuant to *section 15* or *16*) who—

(i) has been awarded in a state other than—

(I) a Member State, or

(II) on an agreement referred to in *section 15(1)(f)* being entered into and taking effect in relation to a state which is a member of the World Trade Organisation, that state,

a degree, diploma or other qualification in architecture, and

(ii) can demonstrate that he or she has sufficient post-graduate experience of performing duties commensurate with those of an architect;

(*h*) a person who has been assessed as eligible for registration by the Technical Assessment Board in accordance with the practical experience assessment procedures;

(*i*) an Irish citizen who as attested by a certificate of the registration body is authorised by the registration body to use the title of "architect" by virtue of the distinguished quality of his or her work in the field of architecture (which authorisation the registration body is empowered, by virtue of this paragraph, to grant).

(3) The registration body may accept as sufficient compliance by a person with *subsection (2)(a)(II)* a statutory declaration by the person that he or she possesses the experience referred to in that provision.

(4) Membership of the registration body is not a prerequisite for registration in the register or continuance of registration but all registered professionals are eligible for membership of the registration body and the same fee shall be charged for registration in the register whether or not the particular person is a member of the registration body.

(5) No prescribing in respect of an educational body or in respect of any degree, diploma or other qualification that is awarded or conferred by it shall be done for the purposes of *subsection (2)(a)* unless the Minister is satisfied that the course provided by the body leading to the award or conferral of the degree, diploma or other qualification provides the requisite instruction in the various elements of the discipline of architecture in accordance with Article 46 of the Directive.

F6**[**(6) For the purposes of the Minister satisfying himself or herself of the matter referred to in subsection (5), the Minister shall consult with the Qualifications and Quality Assurance Authority of Ireland.**]**

(7) In *subsection (2)(d)* "relevant list" means the list of persons whom the Minister had proposed to certify under the terms of the amendment that the State had proposed should be made, in accordance with the procedures under the Treaty establishing the European Community, to Council Directive 85/384/EEC [2] of 10 June 1985 on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services.

Annotations

Amendments:

F6 Substituted (5.11.2012) by *Qualifications and Quality Assurance (Education and Training) Act 2012* (28/2012), s. 86 and sch. 3 item 15, S.I. No. 421 of 2012.

[2] O.J. L223/15, 21.8.1985

Editorial Notes:

E8 Qualification prescribed for purposes of subs. (2)(a)(iii) (12.12.2014) by *Building Control (Prescribed Qualifications) Regulations 2014* (S.I. No. 566 of 2014), reg. 2 and sch.

E9 Examination prescribed for purposes of subs. (2)(f) (10.09.2012) by *Building Control (Prescribed Bodies and Courses) Regulations 2012* (S.I. No. 341 of 2012), reg. 3 and sch. 2.

E10 Bodies prescribed for purposes of subs. (2)(a)(iii) (10.09.2012) by *Building Control (Prescribed Bodies and Courses) Regulations 2012* (S.I. No. 341 of 2012), reg. 2 and sch. 1.

Registration of nationals from certain other states — main categories of such nationals.

15.— (1) In addition to the persons so eligible otherwise under this Part, each of the following is eligible for registration in the register:

(*a*) a national of a Member State who holds evidence of a formal qualification as an architect listed in Annex V, point 5.7.1 of the Directive that satisfies the minimum training conditions referred to in Article 46 of the Directive and which is accompanied, if appropriate, by a certificate listed in Annex V, point 5.7.1 of the Directive;

(*b*) a national of a Member State who holds evidence of a formal qualification as an architect listed in Annex VI, point 6 of the Directive (whether or not it satisfies the minimum training requirements referred to in Article 46 of the Directive) and which is accompanied by a certificate of the competent authority of the Member State which issued the qualification stating that the person was authorised to use the professional title of architect, the date on which the person was so authorised (which date shall not be later than the respective date within the meaning of Article 49(2) of the Directive), and that he or she has been performing duties commensurate with those of an architect for at least 3 consecutive years during the 5 years preceding the date of the award of the certificate;

(*c*) a national of a Member State who has been awarded in a Member State a qualification that the State, pursuant to a relevant measure, is obliged to recognise as corresponding to a qualification referred to in *section 14(2)*;

(*d*) a national of a Member State who, as attested by a certificate of the competent authority of his or her home Member State, is authorised to use the title of architect by virtue of a law in that Member State that gives that competent authority the power to award that title to a national of a Member State who is especially distinguished by the quality of his or her work in the field of architecture;

(*e*) a person who holds evidence of formal qualifications issued by a state, other than a Member State, and which is accompanied by a certificate issued by the competent authority of a Member State that recognised the qualifications that the person performed duties commensurate with those of an architect for 3 years in the territory of that Member State;

(*f*) a national or resident of a state who, by virtue of the following agreement, is entitled to have his or her qualifications in the field of architecture recognised in the State, namely, an agreement that—

(i) is entered into between the European Union and the World Trade Organisation, and

(ii) provides for the recognition by the states to which the agreement relates of qualifications of a class specified in the agreement;

(*g*) a national of a Member State who is not eligible for registration in the register under any of the preceding paragraphs but who is eligible for such registration

under one of the derogations to Article 46 of the Directive provided for in Article 47 of the Directive as follows, namely—

(i) by the person's obtaining training existing as of 5 August 1985 provided by 'Fachochschulen' in the Federal Republic of Germany over a period of 3 years, followed by, as attested by a certificate of the professional association in whose roll the person appears, a 4 year period during which he or she performed duties commensurate with those of an architect, or

(ii) by the person's having—

(I) been employed for not less than 7 years under the supervision of an architect who is eligible for registration under this Part, or who is registered in the register,

(II) as part of a social betterment scheme or part-time third level course, attained a certificate or diploma of university standard, and

(III) passed a professional practice examination in a Member State.

(2) The entry of a person's name in the register pursuant to *subsection (1)* (other than *paragraph (f)* thereof) may be subject to the Admissions Board being satisfied that the person applying for registration pursuant to that subsection has a knowledge of language necessary for practising architecture in the State.

(3) In relation to an application for registration pursuant to *subsection (1)* (other than paragraph *(f)* thereof), the Admissions Board may seek verification of documents furnished to it in accordance with Article 50 of the Directive.

(4) A person who is registered pursuant to *subsection (1)* (other than *paragraph (f)* thereof) or *section 16* shall use the professional title — " architect ".

(5) The Admissions Board shall make a decision on whether or not to register an applicant pursuant to *subsection (1)* (other than *paragraph (f)* thereof) as quickly as possible and, in any event, within 3 months after the date of submission of the completed documentation by the applicant to the Board.

(6) So much of the provisions of this section or *section 16* as have effect in cases where—

(*a*) the person concerned is a national of a Member State,

(*b*) any act or thing is done or awarded or issued in, or by a competent authority of, a Member State, or

(*c*) a matter is provided under the law of a Member State,

shall, to the extent that the terms of those provisions would prevent the equal treatment or recognition mentioned in *subsection (7)* being accorded to the person mentioned in that subsection, be read subject to such modifications as will allow that equal treatment or recognition to be accorded to that person.

(7) (*a*) The equal treatment mentioned in *subsection (6)* is the equal treatment of a family member (within the meaning of Directive 2004/38 of the European Parliament and of the Council of 29 April 2004) of a national of a Member State required by Article 24(1) of that Directive.

(*b*) The recognition mentioned in *subsection(6)* is the recognition required by Article 27 of Council Directive 2004/83/EC of 29 April 2004 of qualifications of a person who is a beneficiary of refugee or subsidiary protection status (within the meaning of that Directive).

Further category of nationals from certain other states who are eligible for registration.

16.— (1) A person who wishes to be registered by virtue of satisfying conditions for recognition of his or her qualifications under Chapter I of Title III of the Directive may apply to the Admissions Board for a decision that he or she is eligible to be registered in pursuance of this section.

(2) A person who makes an application under this section shall submit the following to the Admissions Board:

(*a*) an attestation of competence issued by another Member State in relation to that person;

(*b*) evidence of formal qualifications;

(*c*) where appropriate, evidence that the person has, on a full time basis, performed duties commensurate with those of an architect for not less than 2 years during the previous 10 years.

(3) Subject to the provisions of the Directive, the Admissions Board may request additional information to be submitted by the applicant within a specified period and may require the applicant to appear for an interview if it considers it necessary.

(4) Where an interview is required, at least 4 members of the Admissions Board shall be present for the interview.

(5) The interview shall be recorded in writing or in such other form as the Admissions Board may decide, and additional information may, subsequent to the interview, be required to be submitted by the applicant to those who conducted the interview.

(6) An applicant may be accompanied at the interview by a professional advisor, including a lawyer, but any expense incurred by the applicant in being so accompanied shall be borne by the applicant.

(7) In relation to an application under this section, the Admissions Board may seek verification of documents furnished to it in accordance with Article 50 of the Directive.

(8) (*a*) The Admissions Board may require, in accordance with Article 14 of the Directive, that a person who makes an application under this section shall complete an adaptation period of up to 3 years or take an aptitude test.

(*b*) For that purpose, the Admissions Board shall serve a notice on the applicant stating that—

(i) the applicant may opt to complete an adaptation period or take an aptitude test (and those alternatives are referred to in *subparagraph (iii)* as the "2 alternatives"),

(ii) if it is an adaptation period the applicant opts to complete, that period shall be of a duration specified in the notice,

(iii) if the applicant fails to opt as between the 2 alternatives (and notify, in writing, his or her decision in that regard to the Board within a period specified for that purpose in the notice), the Board shall determine whether to require the applicant to complete an adaptation period or take an aptitude test (and, if it is an adaptation period the Board determines that it shall require the applicant to complete, the duration of that period shall be the same as the duration stated in the notice for the purposes of *subparagraph (ii)*), and

(iv) if the applicant fails, having been registered pursuant to this section, to complete successfully an adaptation period or take and pass an aptitude test which, by virtue of the Directive and this section—

(I) he or she has opted to complete or take and pass, or

(II) the Admissions Board has required him or her to complete or take and pass,

the applicant's name shall be erased from the register.

(9) The Admissions Board shall satisfy itself that the person who makes an application under this section has a knowledge of language necessary for practising architecture in the State.

(10) Where the Admissions Board decides—

(*a*) that the applicant is eligible for registration in the register pursuant to this section, it shall take the necessary steps to register the applicant on payment of any applicable registration fee, or

(*b*) that—

(i) the applicant is not eligible for registration in the register pursuant to this section, or

(ii) without prejudice to *subsection (8)*, the applicant should obtain a knowledge of language necessary for practising architecture in the State,

the chairperson shall immediately send a notice in writing to the applicant, by prepaid registered post to the address of the applicant as furnished in his or her application, advising the applicant of the decision, the date on which it was made and the reasons for it.

(11) The Admissions Board shall make a decision on whether or not a person is eligible for registration in the register pursuant to this section as quickly as possible and, in any event (but subject to *subsection (12)*), within 3 months after the date of submission of the completed documentation by the applicant to the Board.

(12) If in the particular circumstances of the matter the Admissions Board determines that it is not practicable for it to make the decision referred to in *subsection (11)* within the period referred to in that subsection it may, by notice in writing sent, by prepaid registered post, to the applicant, extend that period once or more than once (but the period or the aggregate of the periods of such extension shall not be more than one month).

(13) (*a*) If it appears to the Admissions Board that a person who is registered in the register pursuant to this section—

(i) has, in a case where *subsection (8)* applies, failed to complete successfully an adaptation period or take and pass an aptitude test, as the case may be, mentioned in that subsection, or

(ii) has, in a case where *subsection (10)(b)(ii)* applies, failed to obtain the knowledge of language mentioned in that provision,

the Admissions Board shall decide that the name of the person shall be erased from the register.

(*b*) If the Admissions Board makes such a decision, it shall direct the Registrar to erase the name of the person from the register; on erasing the name of the person from the register, the Registrar shall forthwith send by prepaid registered post to such person, at the person's address as stated in the register, notice in writing of the erasure.

Fees (*Part 3*).

17.— (1) A person applying for registration under this Part shall, at the time of applying, pay the specified fee to the registration body and, in addition, as a condition of continuing to be registered, pay a specified annual fee on a date as may be specified by the registration body.

F7**[**(2) Where the Registrar has sent a notice by prepaid registered post to a registered professional's address as given in the register and has sent a further notice to the person in such manner, including by electronic means, as the Registrar considers appropriate, requesting payment of the annual fee the Registrar may, if the person has not paid the fee within 2 months after sending the second notice, remove the person's name from the register and thereupon shall send a notice by prepaid registered post informing the person that he or she is no longer registered.**]**

(3) Notwithstanding *subsection (2)*, the Registrar may, in cases of verified hardship, waive the requirement to pay a fee under this section, direct that a fee of an amount lesser than the specified amount may be paid for the purposes of this section or remit a fee paid under this section, in whole or in part.

(4) Where a person's name has been removed from the register for non-payment of fees and the person pays the outstanding fees together with any other specified fees, the Registrar shall re-enter the person's name in the register and it shall be treated as having been re-entered on the date it was removed.

Annotations

Amendments:

F7 Substituted (29.08.2022) by *Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022* (15/2022), s. 67, S.I. 429 of 2022.

F8**[**Continuing professional development (*Part 3*)

17A. (1) The registration body shall maintain a system of continuing professional development of architects (in this section referred to as a "system of continuing professional development").

(2) A person registered under this Part shall, as a condition of continuing to be registered, comply with the requirements of the system of continuing professional development and shall provide evidence that he or she has so complied in such manner and at such time as may be specified by the registration body.

(3) The name of a person who fails to comply with *subsection (2)* shall be removed from the register.**]**

Annotations

Amendments:

F8 Inserted (29.08.2022) by *Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022* (15/2022), s. 68, S.I. No. 429 of 2022.

Editorial Notes:

E11 The section heading is taken from the amending section in the absence of one included in the amendment.

Prohibition against using term "architect" unless registered.

18.— (1) Subject to *subsections (3)* and *(4)*, a person who—

(*a*) not being registered under this Part, uses the title "architect", either alone or in combination with any other words or letters, or name, title or description, implying that the person is so registered,

(*b*) with intent to deceive, makes use of a certificate issued under this Part to such person or any other person,

(*c*) makes or causes to be made, any false declaration or misrepresentation for the purpose of obtaining registration under this Part, or aids or abets such action, or

(*d*) practises or carries on business under any name, style or title containing the word "architect", unless he or she is registered under this Part,

shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both.

(2) If the contravention in respect of which a person is convicted of an offence under *subsection (1)* is continued after the conviction, the person shall be guilty of a further offence on every day on which the contravention continues and for each such offence the person shall be liable, on summary conviction, to a fine not exceeding €500.

(3) *Subsection (1)* does not prevent a body corporate, firm or partnership from carrying on business under a name, style or title containing the word "architect" if—

(*a*) the business, so far as it relates to architecture, is under the control and management of a registered professional, and

(*b*) in all premises where its business relating to architecture is carried on, it is by or under the supervision of a registered professional.

(4) The use by a person of the words—

(*a*) "landscape architect",

(*b*) "naval architect",

(*c*) "architectural technician",

(*d*) "architectural technologist",

(*e*) "interior design architect", or

(*f*) such other words as may be prescribed,

to describe himself or herself does not, in and of itself, constitute a contravention of *subsection (1)*.

(5) *Paragraph (a)* or *(d)* of *subsection (1)* shall not apply to a person who has—

(*a*) applied for registration under this Part and in respect of whom the Admissions Board or the Technical Assessment Board, as the case may be, has not made a decision on that application (and the person has not withdrawn that application to the board concerned),

(*b*) appealed to the Appeals Board against a decision of the Admissions Board or the Technical Assessment Board on an application referred to in *paragraph (a)* and in respect of whom the Appeals Board has not made a decision on that appeal (and the person has not withdrawn that appeal to the Appeals Board), or

(*c*) appealed to the High Court against a decision of the Appeals Board referred to in *paragraph (b)* and in respect of whom the High Court has not made a decision on that appeal (and the person has not withdrawn that appeal to the High Court).

(6) The registration body may by rules provide that *subsection (3)* shall not apply in relation to a body corporate, firm or partnership unless it has provided to the registration body such information, necessary for determining whether that subsection applies, as may be provided for in such rules.

(7) For the purposes of this section, a person is not to be regarded as not practising by reason only of that person being in the employment of another person.

(8) In this section, "business" includes any undertaking which is carried on for fee or reward or in the course of which services are provided otherwise than free of charge.

Registrar (*Part 3*).

19.— (1) The registration body shall appoint a Registrar to be responsible for keeping the register under this Part.

(2) The registration body, in addition to paying the Registrar a salary or fee, may pay a pension to the Registrar or make contributions to the payment of a pension, and may pay the Registrar allowances and expenses.

(3) The register shall be in such form, including electronic, photographic or other form, as the registration body decides.

(4) Where a person has applied for registration in accordance with this Part, if the Admissions Board is satisfied that the person is entitled to be registered, the Registrar shall enter the person's name in the register.

(5) Where a person's name is entered in the register, the Registrar shall send to the person a certificate stating that the person is registered.

(6) Where a person receives a certificate under *subsection (5)*, the person shall forthwith cause the certificate to be displayed at the place where the person practises architecture at all times during which his or her registration continues, but not otherwise.

(7) The Registrar shall ensure the register is kept up to date and shall make it available for inspection at the office of the Registrar during normal working hours.

(8) A registered professional shall notify the Registrar of any change in the name under which or the address at which he or she carries on business.

Removal from register (*Part 3*).

20.— (1) Subject to *subsection (3)*, a registered professional may apply to the Registrar to have his or her name removed from the register and, on receipt of the application and on payment of the specified fee, the Registrar shall remove it.

(2) A person whose name has been removed from the register may apply to the Registrar to have his or her name restored to the register and, on application and payment of the specified fee, but subject to any conditions imposed by the Admissions Board with respect to such restoration, the Registrar shall restore it to the register.

(3) Where a complaint is being investigated by the Professional Conduct Committee under *Part 6* in relation to a person, no application shall be entertained by the Registrar to remove the person's name from the register until the investigation has been completed and the Committee has decided what action to take.

(4) Nothing in this section shall prevent a Professional Conduct Committee from refusing to restore a person's name to the register on the grounds of unfitness to practise architecture or attaching conditions to such restoration.

(5) Where the Professional Conduct Committee decides to refuse to so restore a person's name or decides to attach conditions to such restoration, the Registrar shall forthwith send a notice to the person by prepaid registered post to the last address given in the register informing the person of the decision, the date on which it was made and the reasons for it.

Technical Assessment Board (*Part 3*).

21.— (1) The registration body shall establish a Technical Assessment Board to consider applications for registration in the register from persons who do not fall within any of *paragraphs (a)* to *(g)* and *(i)* of *section 14(2)*.

(2) The Technical Assessment Board shall consist of a chairperson and 7 ordinary members, the latter appointed by the registration body as follows:

(*a*) 3 architects nominated for such appointment by the registration body;

(*b*) 4 persons nominated for such appointment by the Minister, being persons who are not architects.

F9**[**(3) The chairperson of the Technical Assessment Board shall be a solicitor, a barrister or a former judge of the Circuit Court, High Court, Court of Appeal or Supreme Court who shall be appointed as chairperson by the Minister.**]**

(4) The Technical Assessment Board shall establish a panel of architects being architects who the Board considers possess the requisite expertise for the purpose of performing the functions assigned to members of the panel under *subsection (5)*.

(5) The Technical Assessment Board shall, in respect of each application under *section 22*, appoint not less than 3 of the members of the panel established under *subsection (4)* to—

(*a*) examine the documents furnished to the Board under *subsection (2)* of that section (and any additional information furnished to it under *subsection (3)* of that section),

(*b*) interview the applicant, and

(*c*) give to the Board their opinion as to whether the applicant is eligible for registration pursuant to that section.

Annotations

Amendments:

F9 Substituted (28.10.2014) by *Court of Appeal Act 2014* (18/2014), s. 67(b), S.I. No. 479 of 2014.

Technical Assessment Board procedure (*Part 3*).

22.— (1) The following person may apply to the Technical Assessment Board for a decision that he or she is eligible to be registered in the register pursuant to this section, namely, a person who has been performing duties commensurate with those of an architect for a period of 10 or more years in the State (but no period of such performance that occurs on or after the commencement of this section shall be reckoned for the purposes of this subsection).

(2) A person who makes an application under this section shall submit the following to the Technical Assessment Board:

(*a*) a curriculum vitae providing details of the work carried out by the applicant in the field of architecture during the period referred to in *subsection (1)*;

(*b*) information on projects for each year of that period for which the applicant was responsible, declarations as to the authorship of the projects and all documentation necessary to support the information;

(*c*) a file containing at least 4 projects, including graphic material, for which the applicant was responsible, being projects that the applicant considers are the most suitable for the purposes of the consideration of his or her application;

(*d*) such independent verification, as the Technical Assessment Board may reasonably require, of the documentation submitted under this subsection.

(3) The Technical Assessment Board may request additional information to be submitted by the applicant within a specified period and may require the applicant to appear for an interview if it considers it necessary; such an interview shall be in addition to the interview conducted by the members of the panel referred to in *section 21(5)* (which latter interview is subsequently referred to in this section as the "panel interview").

(4) Where an interview under this section is required, at least 4 members of the Technical Assessment Board shall be present for the interview.

(5) The panel interview and any interview under this section shall each be recorded in writing or in such other form as the members of the panel concerned or the Technical Assessment Board, as appropriate, may decide, and additional information may, subsequent to the interview, be required to be submitted by the applicant to those who conducted the interview.

(6) An applicant may be accompanied at the panel interview and any interview under this section by a professional advisor, including a lawyer, but any expense incurred by the applicant in being so accompanied shall be borne by the applicant.

(7) The Technical Assessment Board shall use the following criteria in assessing an application under this section:

(*a*) whether or not for the period referred to in *subsection (1)*, the applicant had been performing duties commensurate with those of an architect;

(*b*) whether or not the work submitted was equivalent to the work of an architect, having regard to its scale, complexity and quality;

(*c*) whether or not the applicant can demonstrate that he or she has acquired the competencies specified in Article 46 of the Directive;

(*d*) whether or not the work submitted had been realised by the applicant, and, if the applicant was not totally responsible, what level of responsibility by the applicant for the work could be established,

and, in addition, shall have regard to the opinion of the architects referred to in *section 21(5)* as to whether the applicant is eligible for registration pursuant to this section (but that opinion shall not be binding on the Board).

(8) Where the Technical Assessment Board decides—

(*a*) that the applicant is eligible for registration in the register pursuant to this section, the chairperson shall advise the Admissions Board which shall take the necessary steps to register the applicant on payment of any applicable registration fee, or

(*b*) that the applicant is not eligible for registration in the register pursuant to this section, the chairperson shall immediately send a notice in writing to the applicant, by prepaid registered post to the address of the applicant as furnished in his or her application, advising the applicant of the decision, the date on which it was made and the reasons for it.

Professional Conduct Committee (*Part 3*).

23.— (1) The registration body shall establish a Professional Conduct Committee (the "Committee").

(2) The Committee shall consist of a chairperson and 11 ordinary members, the latter appointed by the registration body as follows:

(*a*) 5 architects nominated for such appointment by the registration body;

(*b*) 6 persons who are not architects—

(i) 5 of whom are nominated for such appointment by the Minister, and

(ii) one of whom is nominated for such appointment by the Minister, with the consent of the Minister for Enterprise, Trade and Employment.

F10**[**(3) The chairperson of the Committee shall be a solicitor, a barrister or a former judge of the Circuit Court, High Court, Court of Appeal or Supreme Court who shall be appointed as chairperson by the Minister with the consent of the Minister for Jobs, Enterprise and Innovation.**]**

Annotations

Amendments:

F10 Substituted (28.10.2014) by *Court of Appeal Act 2014* (18/2014), s. 67(c), S.I. No. 479 of 2014.

Appeals Board (*Part 3*).

24.— (1) The registration body shall establish an Appeals Board.

(2) The Appeals Board shall consist of a chairperson and 5 ordinary members, the latter appointed by the registration body as follows:

(*a*) 2 architects nominated for such appointment by the registration body, neither of whom shall be a member of any other Board or Committee established under this Part;

(*b*) 3 persons who are not architects—

(i) 2 of whom are nominated for such appointment by the Minister, and

(ii) one of whom is nominated for such appointment by the Minister, with the consent of the Minister for Enterprise, Trade and Employment,

none of whom shall be a member of any other Board or Committee established under this Part.

F11**[**(3) The chairperson of the Appeals Board shall be a solicitor, a barrister or a former judge of the Circuit Court, High Court, Court of Appeal or Supreme Court who shall be appointed as chairperson by the Minister.**]**

Annotations

Amendments:

F11 Substituted (28.10.2014) by *Court of Appeal Act 2014* (18/2014), s. 67(d), S.I. No. 479 of 2014.

Appeals procedure (*Part 3*).

25.— (1) A person adversely affected by a decision of the Admissions Board, the Technical Assessment Board or the Professional Conduct Committee may appeal to the Appeals Board against the decision.

(2) An appeal shall be in writing and lodged with the Appeals Board within 3 months after the date of the decision being appealed against.

(3) The appeal shall specify the decision to which the appeal relates and the grounds on which the appeal rests.

(4) An appeal may be based on either procedural or substantive matters.

(5) A person may, at any time before the appeal is heard, withdraw the appeal in whole or in part by notifying the Appeals Board in writing of the withdrawal.

(6) A witness at a hearing conducted by the Appeals Board has the same immunities and privileges as if he or she were a witness before the High Court.

(7) The chairperson of the Appeals Board may—

(*a*) direct in writing an appellant to attend before the Appeals Board on a date and at a time and place specified in the direction,

(*b*) direct in writing any other person whose evidence the Appeals Board may require, to attend before the Appeals Board on a date and at a time and place specified in the direction, and may direct the person to bring any document in the person's possession relating to the appeal,

(*c*) request the relevant Board or Committee whose decision is being appealed against to produce any documents in its possession relating to the appeal, together with its observations on the appeal,

(*d*) give any other direction for the purpose of the proceedings that appears to the chairperson to be fair and reasonable.

(8) The procedures of the Appeals Board shall make provision for—

(*a*) notifying the appellant and the chairperson of the relevant Board or Committee of the date, time and place of the sitting of the Appeals Board,

(*b*) advising the appellant of the appellant's right—

(i) to be present at the Appeals Board's sitting, and

(ii) to present his or her case in person or, at his or her own expense, through a legal representative,

(*c*) the examination of witnesses,

(*d*) determination by the Appeals Board as to whether or not evidence should be given under oath,

(*e*) recording of proceedings.

(9) On the hearing of an appeal under this section, the Appeals Board may—

(*a*) confirm the decision of the relevant Board or Committee, subject to any amendment thereof the Appeals Board thinks fit,

(*b*) annul the decision and direct the relevant Board or Committee to make a new decision, or

(*c*) give such other directions as it thinks fit.

(10) The chairperson of the Appeals Board shall notify—

(*a*) the appellant in writing, sent by prepaid registered post to the appellant's stated address, of the decision taken on the appeal, the date on which it was made and the reasons for it, and shall also advise the appellant of the right to appeal to the High Court against the Appeal Board's decision,

(*b*) the relevant Board or Committee against whose decision the appeal was made of the decision taken on the appeal, the date on which it was made and the reasons for it,

(*c*) where the appellant was the person who had lodged the complaint with the Professional Conduct Committee under *Part 6*, the registered architect in respect of whom the complaint was made, stating the decision taken on the appeal, the date on which it was made and the reasons for it.

Appeal to High Court from decision of Appeals Board (*Part 3*).

26.— (1) A person adversely affected by a decision of the Appeals Board may, within 3 months after the date of such decision, appeal to the High Court against the decision.

(2) On the hearing of an appeal under this section, the Court may—

(*a*) confirm the decision of the Appeals Board, subject to any amendment thereof the Court thinks fit,

(*b*) annul the decision and direct the Appeals Board to make a new decision, or

(*c*) give such other directions as the Court thinks fit,

and the Court may direct how the costs of the appeal are to be borne.

(3) On the hearing of an appeal under this section from a decision of the Appeals Board relating to a decision of the Professional Conduct Committee, the High Court may admit evidence of any person of standing in the architectural profession as to what constitutes professional misconduct or poor professional performance.

Certain other jurisdiction of Appeals Board (*Part 3*).

27.— (1) If the Admissions Board fails to make a decision—

(*a*) referred to in *subsection (5)* of *section 15* within the period specified in that subsection, or

(*b*) referred to in *subsection (11)* of *section 16* within—

(i) unless *subparagraph (ii)* applies, the period specified in that subsection, or

(ii) if that period has been extended under *subsection (12)* of *section 16*, the period of that extension (or, if that period has been extended more than once under that *subsection (12)*, the last period of such extension),

the applicant referred to in *section 15* or *16* may make a complaint to the Appeals Board that such a failure has occurred.

(2) On the hearing of such a complaint and having given the Admissions Board an opportunity to be heard, the Appeals Board may, as it thinks appropriate—

(*a*) give a direction to the Admissions Board to make the decision concerned forthwith, or

(*b*) make itself a decision on the application concerned referred to in *section 15* or *16* (and where the Appeals Board does so *section 26* shall apply to such a decision as it applies to any other decision of the Appeals Board).

PART 4

Registration of Quantity Surveyors

Registration body and Admissions Board (*Part 4*).

28.— (1) F12**[**The Society of Chartered Surveyors Ireland**]** shall be the registration body for the purposes of this Part.

(2) For the purposes of the Directive, the registration body is the competent authority in the State as respects quantity surveyors.

(3) The registration body shall establish an Admissions Board for the purpose of registering persons under this Part.

(4) The Admissions Board shall consist of a chairperson and 7 ordinary members, the latter appointed by the registration body as follows:

(*a*) 3 quantity surveyors nominated for such appointment by the registration body following consultation with the bodies referred to in *paragraphs (b), (c), (e)* and *(f)* of *section 29(2)*;

(*b*) 4 persons nominated for such appointment by the Minister, being persons who are not quantity surveyors.

F13**[**(5) The chairperson of the Admissions Board shall be a solicitor, a barrister or a former judge of the Circuit Court, High Court, Court of Appeal or Supreme Court who shall be appointed as chairperson by the Minister.**]**

Annotations

Amendments:

F12 Substituted (29.08.2022) by *Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022* (15/2022), s. 69, S.I. No. 429 of 2022.

F13 Substituted (28.10.2014) by *Court of Appeal Act 2014* (18/2014), s. 67(e), S.I. No. 479 of 2014.

Registration of quantity surveyors.

29.— (1) The registration body shall establish a register for quantity surveyors (the "register").

(2) Each of the following is eligible for registration in the register:

(*a*) a graduate of—

(i) the Dublin Institute of Technology,

(ii) the Limerick Institute of Technology, or

(iii) such other educational body as may be prescribed,

who has received from it—

(I) in any year prior to 2005, a diploma called the Construction Economic Diploma or a degree of Bachelor of Science in Quantity Surveying,

(II) in 2005 or any subsequent year, an Honours degree of Bachelor of Science in Construction Economics and Management or an Honours degree of Bachelor of Science in Construction Economics (Quantity Surveying), or

(III) such other degree, diploma or qualification as may be prescribed,

and who, in each case, has at least 2 years appropriate experience of performing duties commensurate with those of a quantity surveyor;

F14**[**(*b*) a fellow or professional member of the Society of Chartered Surveyors Ireland, Quantity Surveying Division;**]**

(*c*) a fellow or member of the Chartered Institute of Building, who has at least 3 years practical experience of performing duties commensurate with those of a quantity surveyor;

(*d*) a former fellow or member of the Architecture and Surveying Institute, Quantity Surveying Section (now merged with the Chartered Institute of Building), who has at least 5 years practical experience of performing duties commensurate with those of a quantity surveyor;

(*e*) a fellow or member of the Association of Building Engineers, Quantity Surveying Section, who has at least 5 years practical experience of performing duties commensurate with those of a quantity surveyor;

(*f*) a fellow or member of the Institution of Civil Engineering Surveyors who has at least 5 years practical experience of performing duties commensurate with those of a quantity surveyor;

(*g*) a person who on or after 1 January 2001 and prior to 2005 attained a degree of Bachelor of Science in Quantity Surveying or in 2005 or any subsequent year an Honours degree of Bachelor of Science in Construction Economics (Quantity Surveying) and is enrolled as a fellow or member of the Chartered Institute of Building, the Architecture and Surveying Institute, the Association of Building Engineers or the Institution of Civil Engineering Surveyors and who, in each case, has at least 3 years practical experience of performing duties commensurate with those of a quantity surveyor;

(*h*) a person eligible for such registration by virtue of *section 30* (which relates to holders of qualifications from other states);

(*i*) a national or resident of a state who, by virtue of the following agreement, is entitled to have his or her qualifications in the field of quantity surveying recognised in the State, namely, an agreement that—

(i) is entered into between the European Union and the World Trade Organisation, and

(ii) provides for the recognition by the states to which the agreement relates of qualifications of a class specified in the agreement;

(*j*) a national of a Member State who has been awarded in a Member State a qualification that the State, pursuant to a relevant measure, is obliged to recognise as corresponding to a qualification referred to in *paragraph (a)*;

(*k*) a person (not being a person who is eligible for registration pursuant to *section 30*) who—

(i) has been awarded in a state, other than a Member State or a state which is a member of the World Trade Organisation, a degree, diploma or other qualification in quantity surveying, and

(ii) can demonstrate that he or she has sufficient post-graduate experience of performing duties commensurate with those of a quantity surveyor;

(*l*) a person who has been assessed as eligible for registration by the Technical Assessment Board in accordance with the practical experience assessment procedures.

(3) Membership of the registration body is not a prerequisite for registration in the register or continuance of registration and the same fee shall be charged for registration in the register whether or not the particular person is a member of the registration body.

(4) No prescribing in respect of an educational body or in respect of any degree, diploma or other qualification that is awarded or conferred by it shall be done for the purposes of *subsection (2)(a)* unless the Minister is satisfied that the course provided by the body leading to the award or conferral of the degree, diploma or other qualification provides the requisite instruction in the various elements of the discipline of quantity surveying.

F15**[**(5) For the purposes of the Minister satisfying himself or herself of the matter referred to in *subsection (4)*, the Minister shall consult with the Qualifications and Quality Assurance Authority of Ireland.**]**

Annotations

Amendments:

F14 Substituted (29.08.2022) by *Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022* (15/2022), s. 70, S.I. No. 429 of 2022.

F15 Substituted (5.11.2012) by *Qualifications and Quality Assurance (Education and Training) Act 2012* (28/2012), s. 86 and sch. 3 item 16, S.I. No. 421 of 2012.

Nationals from other states eligible for registration (*Part 4*).

30.— (1) A person who wishes to be registered by virtue of satisfying conditions for recognition of his or her qualifications under Chapter I of Title III of the Directive may apply to the Admissions Board for a decision that he or she is eligible to be registered in pursuance of this section.

(2) A person who makes an application under this section shall submit the following to the Admissions Board:

(*a*) an attestation of competence issued by another Member State in relation to that person;

(*b*) evidence of formal qualifications;

(*c*) where appropriate, evidence that the person has, on a full time basis, performed duties commensurate with those of a quantity surveyor for not less than 2 years during the previous 10 years.

(3) Subject to the provisions of the Directive, the Admissions Board may request additional information to be submitted by the applicant within a specified period and may require the applicant to appear for an interview if it considers it necessary.

(4) Where an interview is required, at least 4 members of the Admissions Board shall be present for the interview.

(5) The interview shall be recorded in writing or in such other form as the Admissions Board may decide, and additional information may, subsequent to the interview, be required to be submitted by the applicant to those who conducted the interview.

(6) An applicant may be accompanied at the interview by a professional advisor, including a lawyer, but any expense incurred by the applicant in being so accompanied shall be borne by the applicant.

(7) In relation to an application under this section, the Admissions Board may seek independent verification of documents furnished to it in accordance with Article 50 of the Directive.

(8) (*a*) The Admissions Board may require, in accordance with Article 14 of the Directive, that a person who makes an application under this section shall complete an adaptation period of up to 3 years or take an aptitude test.

(*b*) For that purpose, the Admissions Board shall serve a notice on the applicant stating that—

(i) the applicant may opt to complete an adaptation period or take an aptitude test (and those alternatives are referred to in *subparagraph (iii)* as the "2 alternatives"),

(ii) if it is an adaptation period the applicant opts to complete, that period shall be of a duration specified in the notice,

(iii) if the applicant fails to opt as between the 2 alternatives (and notify, in writing, his or her decision in that regard to the Board within a period specified for that purpose in the notice), the Board shall determine whether

to require the applicant to complete an adaptation period or take an aptitude test (and, if it is an adaptation period the Board determines that it shall require the applicant to complete, the duration of that period shall be the same as the duration stated in the notice for the purposes of *subparagraph (ii)*), and

(iv) if the applicant fails, having been registered pursuant to this section, to complete successfully an adaptation period or take and pass an aptitude test which, by virtue of the Directive and this section—

(I) he or she has opted to complete or take and pass, or,

(II) the Admissions Board requires him or her to complete or take and pass,

the applicant's name shall be erased from the register.

(9) The Admissions Board shall satisfy itself that the person who makes an application under this section has a knowledge of language necessary for practising quantity surveying in the State.

(10) Where the Admissions Board decides—

(*a*) that the applicant is eligible for registration in the register pursuant to this section, it shall take the necessary steps to register the applicant on payment of any applicable registration fee, or

(*b*) that—

(i) the applicant is not eligible for registration in the register pursuant to this section, or

(ii) without prejudice to *subsection (8)*, the applicant should obtain a knowledge of language necessary for practising quantity surveying in the State,

the chairperson shall immediately send a notice in writing to the applicant, by prepaid registered post to the address of the applicant as furnished in his or her application, advising the applicant of the decision, the date on which it was made and the reasons for it.

(11) A person who is registered pursuant to this section shall—

(*a*) use the professional title — "quantity surveyor", and

(*b*) unless he or she is a member of a body referred to in Annex 1 of the Directive, not expressly represent, or imply by use of any words or letters, that he or she is a member of that body.

(12) The Admissions Board shall make a decision on whether or not a person is eligible for registration in the register pursuant to this section as quickly as possible, and in any event (but subject to *subsection (13)*), within 3 months after the date of submission of the completed documentation by the applicant to the Board.

(13) If in the particular circumstances of the matter the Admissions Board determines that it is not practicable for it to make the decision referred to in *subsection (12)* within the period referred to in that subsection it may, by notice in writing sent, by prepaid registered post, to the applicant, extend that period once or more than once (but the period or the aggregate of the periods of such extension shall not be more than one month).

(14) (*a*) If it appears to the Admissions Board that a person who is registered in the register pursuant to this section—

(i) has, in a case where *subsection (8)* applies, failed to complete successfully an adaptation period or take and pass an aptitude test, as the case may be, mentioned in that subsection, or

(ii) has, in a case where *subsection (10)(b)(ii)* applies, failed to obtain the knowledge of language mentioned in that provision,

the Admissions Board shall decide that the name of the person shall be erased from the register.

(*b*) If the Admissions Board makes such a decision, it shall direct the Registrar to erase the name of the person from the register; on erasing the name of the person from the register, the Registrar shall forthwith send by prepaid registered post to such person, at the person's address as stated in the register, notice in writing of the erasure.

(15) So much of the provisions of this section as have effect in cases where—

(*a*) the person concerned is a national of a Member State,

(*b*) any act or thing is done or awarded or issued in, or by a competent authority of a Member State, or

(*c*) a matter is provided under the law of a Member State,

shall, to the extent that the terms of these provisions would prevent the equal treatment or recognition mentioned in *subsection (16)* being accorded to the person mentioned in that subsection, be read subject to such modifications as will allow that equal treatment or recognition to be accorded to that person.

(16) (*a*) The equal treatment mentioned in *subsection (15)* is the equal treatment of a family member (within the meaning of Directive 2004/38 of the European Parliament and of the Council of 29 April 2004) of a national of a Member State required by Article 42(1) of that Directive.

(*b*) The recognition mentioned in *subsection (15)* is the recognition required by Article 27 of Council Directive 2004/83/EC of 29 April 2004 of qualifications of a person who is a beneficiary of refugee or subsidiary protection status (within the meaning of that Directive).

Fees (*Part 4*).

31.— (1) A person applying for registration under this Part shall, at the time of applying, pay the specified fee to the registration body and, in addition, as a condition of continuing to be registered, pay a specified annual fee on a date as may be specified by the registration body.

F16**[**(2) Where the Registrar has sent a notice by prepaid registered post to a registered professional's address as given in the register and has sent a further notice to the person in such manner, including by electronic means, as the Registrar considers appropriate, requesting payment of the annual fee the Registrar may, if the person has not paid the fee within 2 months after sending the second notice, remove the person's name from the register and thereupon shall send a notice by prepaid registered post informing the person that he or she is no longer registered.**]**

(3) Notwithstanding *subsection (2)*, the Registrar may, in cases of verified hardship, waive the requirement to pay a fee under this section, direct that a fee of an amount lesser than the specified amount may be paid for the purposes of this section or remit a fee paid under this section, in whole or in part.

(4) Where a person's name has been removed from the register for non-payment of fees and the person pays the outstanding fees together with any other specified fees, the Registrar shall re-enter the person's name in the register and it shall be treated as having been re-entered on the date it was removed.

Annotations

Amendments:

F16 Substituted (29.08.2022) by *Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022* (15/2022), s. 71, S.I. No. 429 of 2022.

Continuing professional development (*Part 4*)

F17[**31A**. (1) The registration body shall maintain a system of continuing professional development of quantity surveyors (in this section referred to as a "system of continuing professional development").

(2) A person registered under this Part shall, as a condition of continuing to be registered, comply with the requirements of the system of continuing professional development and shall provide evidence that he or she has so complied in such manner and at such time as may be specified by the registration body.

(3) The name of a person who fails to comply with *subsection (2)* shall be removed from the register.**]**

Annotations

Amendments:

F17 Inserted (29.08.2022) by *Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022* (15/2022), s. 72, S.I. No. 429 of 2022.

Editorial Notes:

E12 The section heading is taken from the amending section in the absence of one included in the amendment.

Prohibition against using term "quantity surveyor" unless registered.

32.— (1) A person who—

(*a*) not being registered under this Part, uses the title "quantity surveyor", either alone or in combination with any other words or letters, or name, title or description, implying that the person is so registered,

(*b*) with intent to deceive, makes use of a certificate issued under this Part to such person or any other person,

(*c*) makes or causes to be made, any false declaration or misrepresentation for the purpose of obtaining registration under this Part, or aids or abets such action, or

(*d*) practises or carries on business under any name, style or title containing the words "quantity surveyor", unless he or she is registered under this Part,

shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both.

(2) If the contravention in respect of which a person is convicted of an offence under *subsection (1)* is continued after the conviction, the person shall be guilty of a further offence on every day on which the contravention continues and for each such offence the person shall be liable, on summary conviction, to a fine not exceeding €500.

(3) *Subsection (1)* does not prevent a body corporate, firm or partnership from carrying on business under a name, style or title containing the words "quantity surveyor" if—

(*a*) the business, so far as it relates to quantity surveying, is under the control and management of a registered professional, and

(*b*) in all premises where its business relating to quantity surveying is carried on, it is by or under the supervision of a registered professional.

(4) *Paragraph (a)* or *(d)* of *subsection (1)* shall not apply to a person who has—

(*a*) applied for registration under this Part and in respect of whom the Admissions Board or the Technical Assessment Board, as the case may be, has not made a decision on that application (and the person has not withdrawn that application to the board concerned),

(*b*) appealed to the Appeals Board against a decision of the Admissions Board or the Technical Assessment Board on an application referred to in *paragraph (a)* and in respect of whom the Appeals Board has not made a decision on that appeal (and the person has not withdrawn that appeal to the Appeals Board), or

(*c*) appealed to the High Court against a decision of the Appeals Board referred to in *paragraph (b)* and in respect of whom the High Court has not made a decision on that appeal (and the person has not withdrawn that appeal to the High Court).

(5) The registration body may by rules provide that *subsection (3)* shall not apply in relation to a body corporate, firm or partnership unless it has provided to the registration body such information, necessary for determining whether that subsection applies, as may be provided for in such rules.

(6) For the purposes of this section, a person is not to be regarded as not practising by reason only of that person being in the employment of another person.

(7) In this section, "business" includes any undertaking which is carried on for fee or reward or in the course of which services are provided otherwise than free of charge.

Registrar (*Part 4*).

33.— (1) The registration body shall appoint a Registrar to be responsible for keeping the register under this Part.

(2) The registration body, in addition to paying the Registrar a salary or fee, may pay a pension to the Registrar or make contributions to the payment of a pension, and may pay the Registrar allowances and expenses.

(3) The register shall be in such form, including electronic, photographic or other form, as the registration body decides.

(4) Where a person has applied for registration in accordance with this Part, if the Admissions Board is satisfied that the person is entitled to be registered, the Registrar shall enter the person's name in the register.

(5) Where a person's name is entered in the register, the Registrar shall send to the person a certificate stating that the person is registered.

(6) Where a person receives a certificate under *subsection (5)*, the person shall forthwith cause the certificate to be displayed at the place where the person practises quantity surveying at all times during which his or her registration continues, but not otherwise.

(7) The Registrar shall ensure the register is kept up to date and shall make it available for inspection at the office of the Registrar during normal working hours.

(8) A registered professional shall notify the Registrar of any change in the name under which or the address at which he or she carries on business.

Removal from register (*Part 4*).

34.— (1) Subject to *subsection (3)*, a registered professional may apply to the Registrar to have his or her name removed from the register and, on receipt of the application and on payment of the specified fee, the Registrar shall remove it.

(2) A person whose name has been removed from the register may apply to the Registrar to have his or her name restored to the register and, on application and payment of the specified fee, but subject to any conditions imposed by the Admissions Board with respect to such restoration, the Registrar shall restore it to the register.

(3) Where a complaint is being investigated by the Professional Conduct Committee under *Part 6* in relation to a person, no application shall be entertained by the Registrar to remove the person's name from the register until the investigation has been completed and the Committee has decided what action to take.

(4) Nothing in this section shall prevent a Professional Conduct Committee from refusing to restore a person's name to the register on the grounds of unfitness to practise quantity surveying or attaching conditions to such restoration.

(5) Where the Professional Conduct Committee decides to refuse to so restore a person's name or decides to attach conditions to such restoration, the Registrar shall forthwith send a notice to the person by prepaid registered post to the last address given in the register informing the person of the decision, the date on which it was made and the reasons for it.

Technical Assessment Board (*Part 4*).

35.— (1) The registration body shall establish a Technical Assessment Board to consider applications for registration in the register from persons who do not fall within any of *paragraphs (a)* to *(k)* of *section 29(2)*.

(2) The Technical Assessment Board shall consist of a chairperson and 7 ordinary members, the latter appointed by the registration body as follows:

(*a*) 3 quantity surveyors nominated for such appointment by the registration body following consultation with the bodies referred to in *paragraphs (b), (c), (e)* and *(f)* of *section 29(2)*;

(*b*) 4 persons nominated for such appointment by the Minister, being persons who are not quantity surveyors.

F18**[**(3) The chairperson of the Technical Assessment Board shall be a solicitor, a barrister or a former judge of the Circuit Court, High Court, Court of Appeal or Supreme Court who shall be appointed as chairperson by the Minister.**]**

Annotations

Amendments:

F18 Substituted (28.10.2014) by *Court of Appeal Act 2014* (18/2014), s. 67(f), S.I. No. 479 of 2014.

Technical Assessment Board procedure (*Part 4*).

36.— (1) Each of the following may apply to the Technical Assessment Board for a decision that he or she is eligible to be registered in the register pursuant to this section:

(*a*) a person who—

(i) on 1 January 2001 was a non-corporate member of the Chartered Institute of Building, the Architecture and Surveying Institute (now merged with the Chartered Institute of Building), the Association of Building Engineers or the Institution of Civil Engineering Surveyors, and

(ii) has been performing duties commensurate with those of a quantity surveyor for a period of 8 or more years in the State (but no period of

such performance that occurs on or after the commencement of this section shall be reckoned for the purposes of this subparagraph);

(*b*) a person who has been performing duties commensurate with those of a quantity surveyor for a period of 10 or more years in the State (but no period of such performance that occurs on or after the commencement of this section shall be reckoned for the purposes of this paragraph).

(2) A person who makes an application under this section shall submit the following to the Technical Assessment Board:

(*a*) a curriculum vitae providing details of the work carried out by the applicant in the field of quantity surveying during the period referred to in *paragraph (a)(ii)* or, as the case may be, *paragraph (b)* of *subsection (1)*; and

(*b*) such independent verification, as the Technical Assessment Board may require, of the documentation so submitted.

(3) The Technical Assessment Board may request additional information to be submitted by the applicant within a specified period and may require the applicant to appear for an interview if it considers it necessary.

(4) Where an interview is required, at least 4 members of the Technical Assessment Board shall be present for the interview.

(5) The interview shall be recorded in writing or in such other form as the Technical Assessment Board may decide, and additional information may, subsequent to the interview, be required to be submitted by the applicant to those who conducted the interview.

(6) An applicant may be accompanied at the interview by a professional advisor, including a lawyer, but any expense incurred by the applicant in being so accompanied shall be borne by the applicant.

(7) Where the Technical Assessment Board decides—

(*a*) that the applicant is eligible for registration in the register pursuant to this section, the chairperson shall advise the Admissions Board which shall take the necessary steps to register the applicant on payment of any applicable registration fee, or

(*b*) that the applicant is not eligible for registration in the register pursuant to this section, the chairperson shall immediately send a notice in writing to the applicant, by prepaid registered post to the address of the applicant as furnished in his or her application, advising the applicant of the decision, the date on which it was made and the reasons for it.

Professional Conduct Committee (*Part 4*).

37.— (1) The registration body shall establish a Professional Conduct Committee (the "Committee").

(2) The Committee shall consist of a chairperson and 11 ordinary members, the latter appointed by the registration body as follows:

(*a*) 5 quantity surveyors nominated for such appointment by the registration body following consultation with the bodies referred to in *paragraphs (b), (c), (e)* and *(f)* of *section 29(2)*;

(*b*) 6 persons who are not quantity surveyors—

(i) 5 of whom are nominated for such appointment by the Minister, and

(ii) one of whom is nominated for such appointment by the Minister, with the consent of the Minister for Enterprise, Trade and Employment.

F19**[**(3) The chairperson of the Committee shall be a solicitor, a barrister or a former judge of the Circuit Court, High Court, the Court of Appeal or Supreme Court who shall be appointed as chairperson by the Minister with the consent of the Minister for Jobs, Enterprise and Innovation.**]**

Annotations

Amendments:

F19 Substituted (28.10.2014) by *Court of Appeal Act 2014* (18/2014), s. 67(g), S.I. No. 479 of 2014.

Appeals Board (*Part 4*).

38.— (1) The registration body shall establish an Appeals Board.

(2) The Appeals Board shall consist of a chairperson and 5 ordinary members, the latter appointed by the registration body as follows:

(*a*) 2 quantity surveyors nominated for such appointment by the registration body following consultation with the bodies referred to in *paragraphs (b), (c), (e)* and *(f)* of *section 29(2)*, neither of whom shall be a member of any other Board or Committee established under this Part;

(*b*) 3 persons who are not quantity surveyors—

(i) 2 of whom are nominated for such appointment by the Minister, and

(ii) one of whom is nominated for such appointment by the Minister, with the consent of the Minister for Enterprise, Trade and Employment,

none of whom shall be a member of any other Board or Committee established under this Part.

F20**[**(3) The chairperson of the Appeals Board shall be a solicitor, a barrister or a former judge of the Circuit Court, High Court, Court of Appeal or Supreme Court who shall be appointed as chairperson by the Minister.**]**

Annotations

Amendments:

F20 Substituted (28.10.2014) by *Court of Appeal Act 2014* (18/2014), s. 67(h), S.I. No. 479 of 2014.

Appeals procedure (*Part 4*).

39.— (1) A person adversely affected by a decision of the Admissions Board, the Technical Assessment Board or the Professional Conduct Committee may appeal to the Appeals Board against the decision.

(2) An appeal shall be in writing and lodged with the Appeals Board within 3 months after the date of the decision being appealed against.

(3) The appeal shall specify the decision to which the appeal relates and the grounds on which the appeal rests.

(4) An appeal may be based on either procedural or substantive matters.

(5) A person may, at any time before the appeal is heard, withdraw the appeal in whole or in part by notifying the Appeals Board in writing of the withdrawal.

(6) A witness at a hearing conducted by the Appeals Board has the same immunities and privileges as if he or she were a witness before the High Court.

(7) The chairperson of the Appeals Board may—

(*a*) direct in writing an appellant to attend before the Appeals Board on a date and at a time and place specified in the direction,

(*b*) direct in writing any other person whose evidence the Appeals Board may require, to attend before the Appeals Board on a date and at a time and place specified in the direction, and may direct the person to bring any document in the person's possession relating to the appeal,

(*c*) request the relevant Board or Committee whose decision is being appealed against to produce any documents in its possession relating to the appeal, together with its observations on the appeal,

(*d*) give any other direction for the purpose of the proceedings that appears to the chairperson to be fair and reasonable.

(8) The procedures of the Appeals Board shall make provision for—

(*a*) notifying the appellant and the chairperson of the relevant Board or Committee of the date, time and place of the sitting of the Appeals Board,

(*b*) advising the appellant of the appellant's right—

(i) to be present at the Appeals Board's sitting, and

(ii) to present his or her case in person or, at his or her own expense, through a legal representative,

(*c*) the examination of witnesses,

(*d*) determination by the Appeals Board as to whether or not evidence should be given under oath,

(*e*) recording of proceedings.

(9) On the hearing of an appeal under this section, the Appeals Board may—

(*a*) confirm the decision of the relevant Board or Committee, subject to any amendment thereof the Appeals Board thinks fit,

(*b*) annul the decision and direct the relevant Board or Committee to make a new decision, or

(*c*) give such other directions as it thinks fit.

(10) The chairperson of the Appeals Board shall notify—

(*a*) the appellant in writing, sent by prepaid registered post to the appellant's stated address, of the decision taken on the appeal, the date on which it was made and the reasons for it, and shall also advise the appellant of the right to appeal to the High Court against the Appeal Board's decision,

(*b*) the relevant Board or Committee against whose decision the appeal was made of the decision taken on the appeal, the date on which it was made and the reasons for it,

(*c*) where the appellant was the person who had lodged the complaint with the Professional Conduct Committee under *Part 6*, the registered quantity surveyor in respect of whom the complaint was made, stating the decision taken on the appeal, the date on which it was made and the reasons for it.

Appeal to High Court from decision of Appeals Board (*Part 4*).

40.— (1) A person adversely affected by a decision of the Appeals Board may, within 3 months after the date of such decision, appeal to the High Court against the decision.

(2) On the hearing of an appeal under this section, the Court may—

(*a*) confirm the decision of the Appeals Board, subject to any amendment thereof the Court thinks fit,

(*b*) annul the decision and direct the Appeals Board to make a new decision, or

(*c*) give such other directions as the Court thinks fit,

and the Court may direct how the costs of the appeal are to be borne.

(3) On the hearing of an appeal under this section from a decision of the Appeals Board relating to a decision of the Professional Conduct Committee, the High Court may admit evidence of any person of standing in the quantity surveying profession as to what constitutes professional misconduct or poor professional performance.

Certain other jurisdiction of Appeals Board (*Part 4*).

41.— (1) If the Admissions Board fails to make a decision referred to in *subsection (12)* of *section 30* within—

(*a*) unless *paragraph (b)* applies, the period specified in that *subsection (12)*, or

(*b*) if that period has been extended under *subsection (13)* of that section, the period of that extension (or, if that period has been extended more than once under that subsection, the last period of such extension),

the applicant referred to in *section 30* may make a complaint to the Appeals Board that such a failure has occurred.

(2) On the hearing of such a complaint and having given the Admissions Board an opportunity to be heard, the Appeals Board may, as it thinks appropriate—

(*a*) give a direction to the Admissions Board to make the decision concerned forthwith, or

(*b*) make itself a decision on the application concerned referred to in *section 30* (and where the Appeals Board does so *section 40* shall apply to such a decision as it applies to any other decision of the Appeals Board).

PART 5

Registration of Building Surveyors

Annotations

Editorial Notes:

E13 Persons whose names are on the register for building surveyors maintained pursuant to Part specified as prescribed for the purposes of *Multi-Unit Developments Act 2011* (2/2011), s. 3 (2.03.2011) by *Multi-Unit Developments Act 2011 (Section 3) (Prescribed Persons) Regulations 2011* (S.I. No. 96 of 2011).

Registration body and Admissions Board (*Part 5*).

42.— (1) F21**[**The Society of Chartered Surveyors Ireland**]** shall be the registration body for the purposes of this Part.

(2) For the purposes of the Directive, the registration body is the competent authority in the State as respects building surveyors.

(3) The registration body shall establish an Admissions Board for the purpose of registering persons under this Part.

(4) The Admissions Board shall consist of a chairperson and 7 ordinary members, the latter appointed by the registration body as follows:

(*a*) 3 building surveyors nominated for such appointment by the registration body following consultation with the bodies referred to in *paragraphs (b), (c)* and *(e)* of *section 43(2)*;

(*b*) 4 persons nominated for such appointment by the Minister, being persons who are not building surveyors.

F22**[**(5) The chairperson of the Admissions Board shall be a solicitor, a barrister or a former judge of the Circuit Court, High Court, Court of Appeal or Supreme Court who shall be appointed as chairperson by the Minister.**]**

Annotations

Amendments:

F21 Substituted (29.08.2022) by *Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022* (15/2022), s. 73, S.I. No. 429 of 2022.

F22 Substituted (28.10.2014) by *Court of Appeal Act 2014* (18/2014), s. 67(i), not commenced as of date of revision.

Registration of building surveyors.

43.— (1) The registration body shall establish a register for building surveyors (the "register").

(2) Each of the following is eligible for registration in the register:

(*a*) a graduate of—

(i) the Dundalk Institute of Technology, or

(ii) such other educational body as may be prescribed,

who has received from it in any year prior to 2005 a degree of Bachelor of Science in Building Surveying or in 2005 or any subsequent year an Honours degree of Bachelor of Science in Building Surveying or such other degree, diploma or qualification as may be prescribed and who, in each case, has at least 2 years appropriate experience of performing duties commensurate with those of a building surveryor;

(*b*) F23**[**a fellow or professional member of the Society of Chartered Surveyors Ireland**]**, Building Surveying Division, who has at least 2 years practical experience of performing duties commensurate with those of a building surveyor;

(*c*) a fellow or member of the Chartered Institute of Building, Building Surveying Section, who has at least 2 years practical experience of performing duties commensurate with those of a building surveyor;

(*d*) a former fellow or member of the Architecture and Surveying Institute, Building Surveying Section (now merged with the Chartered Institute of Building), who has at least 2 years practical experience of performing duties commensurate with those of a building surveyor;

(*e*) a fellow or member of the Association of Building Engineers, Building Surveying Section, who has at least 2 years practical experience of performing duties commensurate with those of a building surveyor;

(*f*) a person who on or after 1 January 2001 and prior to 2005 attained a degree of Bachelor of Science in Building Surveying or in 2005 or any subsequent year an Honours degree of Bachelor of Science in Building Surveying and is enrolled as F23**[**a fellow or professional member of the Society of Chartered Surveyors Ireland**]**, or as a fellow or member of the Chartered Institute of Building, the Architecture and Surveying Institute or the Association of Building Engineers;

(*g*) a person eligible for such registration by virtue of *section 44* (which relates to holders of qualifications from other states);

(*h*) a national of a Member State who has been awarded in a Member State a qualification that the State, pursuant to a relevant measure, is obliged to recognise as corresponding to a qualification referred to in *paragraph (a*;

(*i*) a national or resident of a state who, by virtue of the following agreement, is entitled to have his or her qualifications in the field of building surveying recognised in the State, namely, an agreement that—

(i) is entered into between the European Union and the World Trade Organisation, and

(ii) provides for the recognition by the states to which the agreement relates of qualifications of a class specified in the agreement;

(*j*) a person (not being a person who is eligible for registration pursuant to *section 44*) who—

(i) has been awarded in a state, other than a Member State or a state which is a member of the World Trade Organisation, a degree, diploma or other qualification in building surveying, and

(ii) can demonstrate that he or she has sufficient post-graduate experience of performing duties commensurate with those of a building surveyor;

(*k*) a person who has been assessed as eligible for registration by the Technical Assessment Board in accordance with the practical experience assessment procedures.

(3) Membership of the registration body is not a prerequisite for registration in the register or continuance of registration and the same fee shall be charged for registration in the register whether or not the particular person is a member of the registration body.

(4) No prescribing in respect of an educational body or in respect of any degree, diploma or other qualification that is awarded or conferred by it shall be done for the purposes of *subsection (2)(a)* unless the Minister is satisfied that the course provided by the body leading to the award or conferral of the degree, diploma or other qualification provides the requisite instruction in the various elements of the discipline of building surveying.

F24**[**(5) For the purposes of the Minister satisfying himself or herself of the matter referred to in *subsection (4)*, the Minister shall consult with the Qualifications and Quality Assurance Authority of Ireland.**]**

Annotations

Amendments:

F23 Substituted (29.08.2022) by *Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022* (15/2022), s. 74, S.I. No. 429 of 2022.

F24 Substituted (5.11.2012) by *Qualifications and Quality Assurance (Education and Training) Act 2012* (28/2012), s. 86 and sch. 3 item 17, S.I. No. 421 of 2012.

Nationals from other states eligible for registration (*Part 5*).

44.— (1) A person who wishes to be registered by virtue of satisfying conditions for recognition of his or her qualifications under Chapter I of Title III of the Directive may apply to the Admissions Board for a decision that he or she is eligible to be registered in pursuance of this section.

(2) A person who makes an application under this section shall submit the following to the Admissions Board:

(*a*) an attestation of competence issued by another Member State in relation to that person;

(*b*) evidence of formal qualifications;

(*c*) where appropriate, evidence that the person has, on a full time basis, performed duties commensurate with those of a building surveyor for not less than 2 years during the previous 10 years.

(3) Subject to the provisions of the Directive, the Admissions Board may request additional information to be submitted by the applicant within a specified period and may require the applicant to appear for an interview if it considers it necessary.

(4) Where an interview is required, at least 4 members of the Admissions Board shall be present for the interview.

(5) The interview shall be recorded in writing or in such other form as the Admissions Board may decide, and additional information may, subsequent to the interview, be required to be submitted by the applicant to those who conducted the interview.

(6) An applicant may be accompanied at the interview by a professional advisor, including a lawyer, but any expense incurred by the applicant in being so accompanied shall be borne by the applicant.

(7) In relation to an application under this section, the Admissions Board may seek independent verification of documents furnished to it in accordance with Article 50 of the Directive.

(8) (*a*) The Admissions Board may require, in accordance with Article 14 of the Directive, that a person who makes an application under this section shall complete an adaptation period of up to 3 years or take an aptitude test.

(*b*) For that purpose, the Admissions Board shall serve a notice on the applicant stating that—

(i) the applicant may opt to complete an adaptation period or take an aptitude test (and those alternatives are referred to in *subparagraph (iii)* as the "2 alternatives"),

(ii) if it is an adaptation period the applicant opts to complete, that period shall be of a duration specified in the notice,

(iii) if the applicant fails to opt as between the 2 alternatives (and notify, in writing, his or her decision in that regard to the Board within a period specified for that purpose in the notice), the Board shall determine whether to require the applicant to complete an adaptation period or take an aptitude test (and, if it is an adaptation period the Board determines that it shall require the applicant to complete, the duration of that period shall be the same as the duration stated in the notice for the purposes of *subparagraph (ii)*), and

(iv) if the applicant fails, having been registered pursuant to this section, to complete successfully an adaptation period or take and pass an aptitude test which, by virtue of the Directive and this section—

(I) he or she has opted to complete or take and pass, or

(II) the Admissions Board requires him or her to complete or take and pass,

the applicant's name shall be erased from the register.

(9) The Admissions Board shall satisfy itself that the person has a knowledge of language necessary for practising building surveying in the State.

(10) Where the Admissions Board decides—

(*a*) that the applicant is eligible for registration in the register pursuant to this section, it shall take the necessary steps to register the applicant on payment of any applicable registration fee, or

(*b*) that—

(i) the applicant is not eligible for registration in the register pursuant to this section, or

(ii) without prejudice to *subsection (8)*, the applicant should obtain a knowledge of language necessary for practising building surveying in the State,

the chairperson shall immediately send a notice in writing to the applicant, by prepaid registered post to the address of the applicant as furnished in his or her application, advising the applicant of the decision, the date on which it was made and the reasons for it.

(11) A person who is registered pursuant to this section shall—

(*a*) use the professional title — "building surveyor", and

(*b*) unless he or she is a member of a body referred to in Annex 1 of the Directive, not expressly represent or imply, by use of any words or letters, that he or she is a member of that body.

(12) The Admissions Board shall make a decision on whether or not a person is eligible for registration in the register pursuant to this section as quickly as possible and, in any event (but subject to *subsection (13)*), within 3 months after the date of submission of the completed documentation by the applicant to the Board.

(13) If in the particular circumstances of the matter the Admissions Board determines that it is not practicable for it to make the decision referred to in *subsection (12)* within the period referred to in that subsection it may, by notice in writing sent, by prepaid registered post, to the applicant, extend that period once or more than once (but the period or the aggregate of the periods of such extension shall not be more than one month).

(14) (*a*) If it appears to the Admissions Board that a person who is registered in the register pursuant to this section—

(i) has, in a case where *subsection (8)* applies, failed to complete successfully an adaptation period or take and pass an aptitude test, as the case may be, mentioned in that subsection, or

(ii) has, in a case where *subsection (10)(b)(ii)* applies, failed to obtain the knowledge of language mentioned in that provision,

the Admissions Board shall decide that the name of the person shall be erased from the register.

(*b*) If the Admissions Board makes such a decision, it shall direct the Registrar to erase the name of the person from the register; on erasing the name of the person from the register, the Registrar shall forthwith send by prepaid registered post to such person, at the person's address as stated in the register, notice in writing of the erasure.

(15) So much of the provisions of this section as have effect in cases where—

(*a*) the person concerned is a national of a Member State,

(*b*) any act or thing is done or awarded or issued in, or by a competent authority of a Member State, or

(*c*) a matter is provided under the law of a Member State,

shall, to the extent that the terms of these provisions would prevent the equal treatment or recognition mentioned in *subsection (16)* being accorded to the person mentioned in that subsection, be read subject to such modifications as will allow that equal treatment or recognition to be accorded to that person.

(16) (*a*) The equal treatment mentioned in *subsection (15)* is the equal treatment of a family member (within the meaning of Directive 2004/38 of the European Parliament and of the Council of 29 April 2004) of a national of a Member State required by Article 42(1) of that Directive.

(*b*) The recognition mentioned in *subsection (15)* is the recognition required by Article 27 of Council Directive 2004/83/EC of 29 April 2004 of qualifications of a person who is a beneficiary of refugee or subsidiary protection status (within the meaning of that Directive).

Fees (*Part 5*).

45.— (1) A person applying for registration under this Part shall, at the time of applying, pay the specified fee to the registration body and, in addition, as a condition of continuing to be registered, pay a specified annual fee on a date as may be specified by the registration body.

F25**[**(2) Where the Registrar has sent a notice by prepaid registered post to a registered professional's address as given in the register and has sent a further notice to the person in such manner, including by electronic means, as the Registrar considers appropriate, requesting payment of the annual fee the Registrar may, if the person has not paid the fee within 2 months after sending the second notice, remove the person's name from the register and thereupon shall send a notice by prepaid registered post informing the person that he or she is no longer registered.**]**

(3) Notwithstanding *subsection (2)*, the Registrar may, in cases of verified hardship, waive the requirement to pay a fee under this section, direct that a fee of an amount lesser than the specified amount may be paid for the purposes of this section or remit a fee paid under this section, in whole or in part.

(4) Where a person's name has been removed from the register for non-payment of fees and the person pays the outstanding fees together with any other specified fees, the Registrar shall re-enter the person's name in the register and it shall be treated as having been re-entered on the date it was removed.

Annotations

Amendments:

F25 Substituted (29.08.2022) by *Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022* (15/2022), s. 75, S.I. No. 429 of 2022.

F26**[**Continuing professional development (*Part 5*)

45A. (1) The registration body shall maintain a system of continuing professional development of building surveyors (in this section referred to as a "system of continuing professional development").

(2) A person registered under this Part shall, as a condition of continuing to be registered, comply with the requirements of the system of continuing professional development and shall provide evidence that he or she has so complied in such manner and at such time as may be specified by the registration body.

(3) The name of a person who fails to comply with *subsection (2)* shall be removed from the register.**]**

Annotations

Amendments:

F26 Inserted (29.08.2022) by *Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022* (15/2022), s. 76, S.I. No. 429 of 2022.

Editorial Notes:

E14 The section heading is taken from the amending section in the absence of one included in the amendment.

Prohibition against using term "building surveyor" unless registered.

46.— (1) A person who—

(*a*) not being registered under this Part, uses the title "building surveyor", either alone or in combination with any other words or letters, or name, title or description, implying that the person is so registered,

(*b*) with intent to deceive, makes use of a certificate issued under this Part to such person or any other person,

(*c*) makes or causes to be made, any false declaration or misrepresentation for the purpose of obtaining registration under this Part, or aids or abets such action, or

(*d*) practises or carries on business under any name, style or title containing the words "building surveyor", unless he or she is registered under this Part,

shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both.

(2) If the contravention in respect of which a person is convicted of an offence under *subsection (1)* is continued after the conviction, the person shall be guilty of a further offence on every day on which the contravention continues and for each such offence the person shall be liable, on summary conviction, to a fine not exceeding €500.

(3) *Subsection (1)* does not prevent a body corporate, firm or partnership from carrying on business under a name, style or title containing the words "building surveyor" if—

(*a*) the business, so far as it relates to building surveying, is under the control and management of a registered professional, and

(*b*) in all premises where its business relating to building surveying is carried on, it is by or under the supervision of a registered professional.

(4) *Paragraph (a)* or *(d)* of *subsection (1)* shall not apply to a person who has—

(*a*) applied for registration under this Part and in respect of whom the Admissions Board or the Technical Assessment Board, as the case may be, has not made

a decision on that application (and the person has not withdrawn that application to the board concerned),

(*b*) appealed to the Appeals Board against a decision of the Admissions Board or the Technical Assessment Board on an application referred to in *paragraph (a)* and in respect of whom the Appeals Board has not made a decision on that appeal (and the person has not withdrawn that appeal to the Appeals Board), or

(*c*) appealed to the High Court against a decision of the Appeals Board referred to in *paragraph (b)* and in respect of whom the High Court has not made a decision on that appeal (and the person has not withdrawn that appeal to the High Court).

(5) The registration body may by rules provide that *subsection (3)* shall not apply in relation to a body corporate, firm or partnership unless it has provided to the registration body such information, necessary for determining whether that subsection applies, as may be provided for in such rules.

(6) For the purposes of this section, a person is not to be regarded as not practising by reason only of that person being in the employment of another person.

(7) In this section, "business" includes any undertaking which is carried on for fee or reward or in the course of which services are provided otherwise than free of charge.

Registrar (*Part 5*).

47.— (1) The registration body shall appoint a Registrar to be responsible for keeping the register under this Part.

(2) The registration body, in addition to paying the Registrar a salary or fee, may pay a pension to the Registrar or make contributions to the payment of a pension, and may pay the Registrar allowances and expenses.

(3) The register shall be in such form, including electronic, photographic or other form, as the registration body decides.

(4) Where a person has applied for registration in accordance with this Part, if the Admissions Board is satisfied that the person is entitled to be registered, the Registrar shall enter the person's name in the register.

(5) Where a person's name is entered in the register, the Registrar shall send to the person a certificate stating that the person is registered.

(6) Where a person receives a certificate under *subsection (5)*, the person shall forthwith cause the certificate to be displayed at the place where the person practises building surveying at all times during which his or her registration continues, but not otherwise.

(7) The Registrar shall ensure the register is kept up to date and shall make it available for inspection at the office of the Registrar during normal working hours.

(8) A registered professional shall notify the Registrar of any change in the name under which or the address at which he or she carries on business.

Removal from register (*Part 5*).

48.— (1) Subject to *subsection (3)*, a registered professional may apply to the Registrar to have his or her name removed from the register and, on receipt of the application and on payment of the specified fee, the Registrar shall remove it.

(2) A person whose name has been removed from the register may apply to the Registrar to have his or her name restored to the register and, on application and payment of the specified fee, but subject to any conditions imposed by the Admissions Board with respect to such restoration, the Registrar shall restore it to the register.

(3) Where a complaint is being investigated by the Professional Conduct Committee under *Part 6* in relation to a person, no application shall be entertained by the Registrar to remove the person's name from the register until the investigation has been completed and the Committee has decided what action to take.

(4) Nothing in this section shall prevent a Professional Conduct Committee from refusing to restore a person's name to the register on the grounds of unfitness to practise building surveying or attaching conditions to such restoration.

(5) Where the Professional Conduct Committee decides to refuse to so restore a person's name or decides to attach conditions to such restoration, the Registrar shall forthwith send a notice to the person by prepaid registered post to the last address given in the register informing the person of the decision, the date on which it was made and the reasons for it.

Technical Assessment Board (*Part 5*).

49.— (1) The registration body shall establish a Technical Assessment Board to consider applications for registration in the register from persons who do not fall within any of *paragraphs (a)* to *(j)* of *section 43(2)*.

(2) The Technical Assessment Board shall consist of a chairperson and 7 ordinary members, the latter appointed by the registration body as follows:

(*a*) 3 building surveyors nominated for such appointment by the registration body following consultation with the bodies referred to in *paragraphs (b), (c)* and *(e)* of *section 43(2)*;

(*b*) 4 persons nominated for such appointment by the Minister, being persons who are not building surveyors.

F27**[**(3) The chairperson of the Technical Assessment Board shall be a solicitor, a barrister or a former judge of the Circuit Court, High Court, Court of Appeal or Supreme Court who shall be appointed as chairperson by the Minister.**]**

Annotations

Amendments:

F27 Substituted (28.10.2014) by *Court of Appeal Act 2014* (18/2014), s. 67(j), S.I. No. 479 of 2014.

Technical Assessment Board procedure (*Part 5*).

50.— (1) Each of the following may apply to the Technical Assessment Board for a decision that he or she is eligible to be registered in the register pursuant to this section:

(*a*) a person who—

(i) on 1 May 1999 was a non-corporate member of the Chartered Institute of Building, the Architecture and Surveying Institute (now merged with the Chartered Institute of Building) or the Association of Building Engineers, and

(ii) has been performing duties commensurate with those of a building surveyor for a period of 8 or more years in the State (but no period of such performance that occurs on or after the commencement of this section shall be reckoned for the purposes of this subparagraph);

(*b*) a person who has been performing duties commensurate with those of a building surveyor for a period of 10 or more years in the State (but no period of such performance that occurs on or after the commencement of this section shall be reckoned for the purposes of this paragraph).

(2) A person who makes an application under this section shall submit the following to the Technical Assessment Board:

(*a*) a curriculum vitae providing details of the work carried out by the applicant in the field of building surveying during the period referred to in *paragraph (a)(ii)* or, as the case may be, *paragraph (b)* of *subsection (1)*; and

(*b*) such independent verification, as the Technical Assessment Board may require, of the documentation so submitted.

(3) The Technical Assessment Board may request additional information to be submitted by the applicant within a specified period and may require the applicant to appear for an interview if it considers it necessary.

(4) Where an interview is required, at least 4 members of the Technical Assessment Board shall be present for the interview.

(5) The interview shall be recorded in writing or in such other form as the Technical Assessment Board may decide, and additional information may, subsequent to the interview, be required to be submitted by the applicant to those who conducted the interview.

(6) An applicant may be accompanied at the interview by a professional advisor, including a lawyer, but any expense incurred by the applicant in being so accompanied shall be borne by the applicant.

(7) Where the Technical Assessment Board decides—

(*a*) that the applicant is eligible for registration in the register pursuant to this section, the chairperson shall advise the Admissions Board which shall take the necessary steps to register the applicant on payment of any applicable registration fee, or

(*b*) that the applicant is not eligible for registration in the register pursuant to this section, the chairperson shall immediately send a notice in writing to the applicant, by prepaid registered post to the address of the applicant as furnished in his or her application, advising the applicant of the decision, the date on which it was made and the reasons for it.

Professional Conduct Committee (*Part 5*).

51.— (1) The registration body shall establish a Professional Conduct Committee (the "Committee").

(2) The Committee shall consist of a chairperson and 11 ordinary members, the latter appointed by the registration body as follows:

(*a*) 5 building surveyors nominated for such appointment by the registration body following consultation with the bodies referred to in *paragraphs (b), (c)* and *(e)* of *section 43(2)*;

(*b*) 6 persons who are not building surveyors—

(i) 5 of whom are nominated for such appointment by the Minister, and

(ii) one of whom is nominated for such appointment by the Minister, with the consent of the Minister for Enterprise, Trade and Employment.

F28**[**(3) The chairperson of the Committee shall be a solicitor, a barrister or a former judge of the Circuit Court, High Court, Court of Appeal or Supreme Court who shall be appointed as chairperson by the Minister with the consent of the Minister for Jobs, Enterprise and Innovation.**]**

Annotations

Amendments:

F28 Substituted (28.10.2014) by *Court of Appeal Act 2014* (18/2014), s. 67(k), S.I. No. 479 of 2014.

Appeals Board (*Part 5*).

52.— (1) The registration body shall establish an Appeals Board.

(2) The Appeals Board shall consist of a chairperson and 5 ordinary members, the latter appointed by the registration body as follows:

(*a*) 2 building surveyors nominated for such appointment by the registration body following consultation with the bodies referred to in *paragraphs (b), (c)* and *(e)* of *section 43(2)*, neither of whom shall be a member of any other Board or Committee established under this Part;

(*b*) 3 persons who are not building surveyors—

(i) 2 of whom are nominated for such appointment by the Minister, and

(ii) one of whom is nominated for such appointment by the Minister, with the consent of the Minister for Enterprise, Trade and Employment,

none of whom shall be a member of any other Board or Committee established under this Part.

F29**[**(3) The chairperson of the Appeals Board shall be a solicitor, a barrister or a former judge of the Circuit Court, High Court, Court of Appeal or Supreme Court who shall be appointed as chairperson by the Minister.**]**

Annotations

Amendments:

F29 Substituted (28.10.2014) by *Court of Appeal Act 2014* (18/2014), s. 67(l), S.I. No. 479 of 2014.

Appeals procedure (*Part 5*).

53.— (1) A person adversely affected by a decision of the Admissions Board, the Technical Assessment Board or the Professional Conduct Committee may appeal to the Appeals Board against the decision.

(2) An appeal shall be in writing and lodged with the Appeals Board within 3 months after the date of the decision being appealed against.

(3) The appeal shall specify the decision to which the appeal relates and the grounds on which the appeal rests.

(4) An appeal may be based on either procedural or substantive matters.

(5) A person may, at any time before the appeal is heard, withdraw the appeal in whole or in part by notifying the Appeals Board in writing of the withdrawal.

(6) A witness at a hearing conducted by the Appeals Board has the same immunities and privileges as if he or she were a witness before the High Court.

(7) The chairperson of the Appeals Board may—

(*a*) direct in writing an appellant to attend before the Appeals Board on a date and at a time and place specified in the direction,

(*b*) direct in writing any other person whose evidence the Appeals Board may require, to attend before the Appeals Board on a date and at a time and place

specified in the direction, and may direct the person to bring any document in the person's possession relating to the appeal,

(*c*) request the relevant Board or Committee whose decision is being appealed against to produce any documents in its possession relating to the appeal, together with its observations on the appeal,

(*d*) give any other direction for the purpose of the proceedings that appears to the chairperson to be fair and reasonable.

(8) The procedures of the Appeals Board shall make provision for—

(*a*) notifying the appellant and the chairperson of the relevant Board or Committee of the date, time and place of the sitting of the Appeals Board,

(*b*) advising the appellant of the appellant's right—

(i) to be present at the Appeals Board's sitting, and

(ii) to present his or her case in person or, at his or her own expense, through a legal representative,

(*c*) the examination of witnesses,

(*d*) determination by the Appeals Board as to whether or not evidence should be given under oath,

(*e*) recording of proceedings.

(9) On the hearing of an appeal under this section, the Appeals Board may—

(*a*) confirm the decision of the relevant Board or Committee, subject to any amendment thereof the Appeals Board thinks fit,

(*b*) annul the decision and direct the relevant Board or Committee to make a new decision, or

(*c*) give such other directions as it thinks fit.

(10) The chairperson of the Appeals Board shall notify—

(*a*) the appellant in writing, sent by prepaid registered post to the appellant's stated address, of the decision taken on the appeal, the date on which it was made and the reasons for it, and shall also advise the appellant of the right to appeal to the High Court against the Appeals Board's decision,

(*b*) the relevant Board or Committee against whose decision the appeal was made of the decision taken on the appeal, the date on which it was made and the reasons for it,

(*c*) where the appellant was the person who had lodged the complaint with the Professional Conduct Committee under *Part 6*, the registered building surveyor in respect of whom the complaint was made, stating the decision taken on the appeal, the date on which it was made and the reasons for it.

Appeal to High Court from decision of Appeals Board (*Part 5*).

54.— (1) A person adversely affected by a decision of the Appeals Board may, within 3 months after the date of such decision, appeal to the High Court against the decision.

(2) On the hearing of an appeal under this section, the Court may—

(*a*) confirm the decision of the Appeals Board, subject to any amendment thereof the Court thinks fit,

(*b*) annul the decision and direct the Appeals Board to make a new decision, or

(*c*) give such other directions as the Court thinks fit,

and the Court may direct how the costs of the appeal are to be borne.

(3) On the hearing of an appeal under this section from a decision of the Appeals Board relating to a decision of the Professional Conduct Committee, the High Court may admit evidence of any person of standing in the building surveying profession as to what constitutes professional misconduct or poor professional performance.

Certain other jurisdiction of Appeals Board (*Part 5*).

55.— (1) If the Admissions Board fails to make a decision referred to in *subsection (12)* of *section 44* within—

(*a*) unless *paragraph (b)* applies, the period specified in that *subsection (12)*, or

(*b*) if that period has been extended under *subsection (13)* of that section, the period of that extension (or, if that period has been extended more than once under that subsection, the last period of such extension),

the applicant referred to in *section 44* may make a complaint to the Appeals Board that such a failure has occurred.

(2) On the hearing of such a complaint and having given the Admissions Board an opportunity to be heard, the Appeals Board may, as it thinks appropriate—

(*a*) give a direction to the Admissions Board to make the decision concerned forthwith, or

(*b*) make itself a decision on the application concerned referred to in *section 44* (and where the Appeals Board does so *section 54* shall apply to such a decision as it applies to any other decision of the Appeals Board).

PART 6

Fitness to Practise

Establishment of Professional Conduct Standards.

56.— (1) The registration body shall prepare a code (in this Part referred to as the "code") specifying the standards of professional conduct and practice that shall be adhered to by registered professionals.

(2) The registration body shall review the code prepared by it from time to time and may amend its provisions if it thinks fit.

(3) A draft of the proposed code or any amendment of it shall be—

(*a*) published by the registration body, in such manner as it may determine, together with an invitation to the public and any organisation or other body which appears to the registration body to have an interest in the matter to comment on the draft before a date specified by the registration body in the invitation,

(*b*) submitted by the registration body to the Competition Authority with a request for the furnishing in writing (before a date specified by the registration body in the submission) by the Authority of its opinion as to whether any provision of the draft would be likely to result in competition being prevented, restricted or distorted.

(4) The registration body shall take into account any comment received by it in accordance with an invitation under *subsection (3)(a)* and any opinion in writing of the Competition Authority received by it in accordance with a request under *subsection (3)(b)* in relation to the draft code or any amendment of it before it prepares the code or the amendment.

(5) The registration body shall provide a copy of the code it has prepared to anyone who requests it, on payment of a reasonable charge, or without charge where it considers it appropriate.

Annotations

Modifications (not altering text):

C1 Reference to Competition Authority construed as reference to Competition and Consumer Protection Commission (31.10.2014) by *Competition and Consumer Protection Act 2014* (29/2014), s. 39(2), commenced as per subs. (4) and S.I. No. 367 of 2014.

Transfer of functions to Commission

39. (1) All functions that, immediately before the establishment day, were vested in the dissolved bodies are transferred to the Commission.

(2) References in any Act of the Oireachtas passed before the establishment day or in any instrument made before that day under an Act of the Oireachtas to— ...

(b) the Competition Authority,

shall, on and after that day, be construed as references to the Commission.

...

Complaints to Professional Conduct Committee.

57.— (1) Any person may complain to the Professional Conduct Committee (the "Committee") concerning an action of a registered professional which is alleged to amount to professional misconduct or poor professional performance.

(2) Where the Committee is of the opinion that a *prima facie* case has not been established for an inquiry under *subsection (5)* with respect to the complaint, it shall so inform the complainant in writing and shall not proceed further.

F30**[**(2A) The opinion of the Committee referred to in *subsection (2)* shall be final and shall not be a decision of the Committee for the purposes of *section 25(1)*, *39(1)* or *53(1)*.**]**

(3) The Committee may, where it considers it appropriate to do so, request the complainant and the registered professional who is the subject of the complaint to seek resolution of the complaint by mediation before a person or persons appointed under rules made by the relevant registration body and if the complainant and the registered professional consent to such mediation being conducted, such mediation shall be conducted accordingly.

(4) If the mediation does not result in the resolution of the complaint, the Committee shall proceed to consider the complaint.

(5) F31**[**Subject to *subsection (2A)*, the**]** Committee may decide to hold an inquiry with respect to a complaint and where it does so the chairperson of the Committee shall notify the other members of the Committee and the complainant and the registered professional of the date, time and place for the hearing, and the notice under this subsection to the registered professional shall be sent by prepaid registered post to the address given in the register, shall contain details of the nature of the alleged complaint against the registered professional and shall inform the registered professional of his or her right to appear before the Committee and to be represented at the hearing by a person of his or her choice.

(6) For an inquiry under this section, the Committee has the powers, rights and privileges vested in the High Court or a judge thereof in hearing an action, for the purpose of—

(*a*) enforcing the attendance of witnesses and examining them on oath or otherwise, and

(*b*) compelling the production of documents,

and, for such purposes, a summons signed by the chairperson of the Committee is equivalent to any formal procedure capable of being instituted in an action.

(7) Where a person summoned by the chairperson to attend before a hearing of the Committee or to produce a document—

(*a*) makes default in attending,

(*b*) fails or refuses to produce a document that is within that person's power to produce, or

(*c*) refuses to take an oath or refuses to answer a question which the Committee may lawfully ask,

that person shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both.

(8) If the contravention in respect of which a person is convicted of an offence under *subsection (7)* is continued after the conviction, the person shall be guilty of a further offence on every day on which the contravention continues and for each such offence the person shall be liable, on summary conviction, to a fine not exceeding €500.

(9) A witness at a hearing under this section has the same immunities and privileges as if he or she were a witness before the High Court.

(10) On completion of an inquiry, the Committee shall produce a report embodying its findings, including the nature of the complaint, the evidence before it, such other matters relating to the registered professional as it thinks fit and its opinion respecting whether a case of professional misconduct or poor professional performance was established or not.

(11) The findings of the Committee on any matter referred to it shall not be made public, without the consent of the person who has been the subject of the inquiry, unless the Committee has found the person to be guilty of professional misconduct or poor professional performance.

(12) Where the Committee has not found the registered professional guilty of professional misconduct or poor professional performance it shall so notify the complainant and inform the complainant of his or her right of appeal to the Appeals Board against its finding.

Annotations

Amendments:

F30 Inserted (29.08.2022) by *Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022* (15/2022), s. 77(a), S.I. No. 429 of 2022.

F31 Substituted (29.08.2022) by *Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022* (15/2022), s. 77(b), S.I. No. 429 of 2022.

Decision of the Professional Conduct Committee.

58.— (1) Where the Professional Conduct Committee (the "Committee") finds there has been no professional misconduct or poor professional performance on the part of the registered professional, it shall take no further action in the matter and shall so inform the registered professional.

(2) Where the Committee determines that a registered professional is guilty of professional misconduct or poor professional performance, it may, subject to the other provisions of this Act, do one or more of the following:

(*a*) advise, admonish or censure the registered professional in relation to the conduct or performance complained of;

(*b*) impose on the registered professional a fine of a specified amount and failing payment by him or her of the fine to the registration body within 2 months of his or her being notified of its imposition, the Registrar may erase the person's name from the register;

(*c*) direct that during a specified period, registration of the person's name in the register shall not have effect;

(*d*) erase the person's name from the register;

(*e*) direct that the person's name remain on the register but impose such conditions for the name remaining on the register as it considers appropriate, to be complied with by the registered professional,

and the chairperson of the Committee shall forthwith notify the person by prepaid registered post sent to the person's address as given in the register, of the Committee's decision, the date thereof and the reasons therefor and of the person's right of appeal to the Appeals Board against the decision.

(3) Without prejudice to the operation of the other provisions of this Act in relation to appeals against decisions to exercise such powers, none of the powers under *subsection (2)(b)* to *(e)* may be exercised by the Committee unless the decision to exercise the power has been confirmed by the High Court under *subsection (6)* or, as the case may be, on an appeal to that Court under *section 26*, *40* or *54* as appropriate, and then may only be exercised subject to the terms (if any) of such confirmation.

(4) Where a registered professional appeals against a decision of the Committee to the Appeals Board within the period provided for under this Act, the decision of the Committee is stayed until the appeal is disposed of, including any period provided for a further appeal to the High Court.

(5) *Subsection (6)* applies if—

(*a*) no appeal under this Act is taken against the decision of the Committee mentioned in that subsection, or

(*b*) (i) such an appeal taken against the decision has been disposed of and the decision has been confirmed (with or without amendment of it), and

(ii) that confirmation is not a confirmation of the High Court under *section 26*, *40* or *54* , as appropriate.

(6) The Registrar may apply to the High Court for confirmation of a decision of the Committee to exercise the powers under *subsection (2)(b)*, *(c)*, *(d)* or *(e)* and, if the Registrar so applies, the High Court, on the hearing of the application, shall, unless it sees good reason to the contrary, declare accordingly and, where the declaration relates to a decision to exercise the powers under *subsection (2)(d)*, either (as the Court may consider proper) direct the Registrar to erase the name of such person from the register concerned or direct that during a specified period (beginning not earlier than 7 days after the decision of the Court) registration of the person's name in that register shall not have effect.

(7) On erasing the name of a person from any register under this section, the Registrar shall forthwith send by prepaid registered post to such person, at the person's address as stated in the register, notice in writing of the erasure.

(8) Where a direction is given under this section that during a specified period registration of the name of a person in any register shall not have effect, the Registrar shall, before the commencement of that period, send by prepaid registered post to such person, at the person's address as stated in the register, notice in writing of such direction.

(9) The name of any person that has been erased under this section may be restored to the register concerned on the direction of the Committee, but not otherwise, and the Committee may attach such conditions as it sees fit to the restoration (including payment of a fee not exceeding the fee provided for an application for registration in the first instance).

(10) Where the registration of a person in a register has ceased to have effect under this section for a period of specified duration, the Committee may, if it thinks fit, on application made to it by such person, by direction terminate the suspension and the Committee may attach such conditions as it sees fit to the termination (including payment of a fee not exceeding the fee provided for an application for registration in the first instance).

Proceedings privileged.

59.— Proceedings of or communications to or by a Professional Conduct Committee in the course of an inquiry, and reports of the Committee made in the exercise or performance of its powers, duties or functions, under this Part shall, in any action for defamation, be absolutely privileged.

PART 7

Miscellaneous Provisions

Temporary registration under Title II of Directive.

60.— (1) If a person intends to provide, in reliance on Article 5(2) of the Directive, architectural, quantity surveying or building surveying services in the State on a temporary and occasional basis, the person shall notify the Admissions Board of that intention and the Admissions Board shall, subject to *subsection (5)*, on receipt of that notification, register the person in the register under *Part 3*, *4* or *5*, as the case may be, for that purpose.

(2) A person who notifies the Admissions Board pursuant to *subsection (1)* shall, if the occasion of the notification is the first occasion on which he or she intends, on foot of such a notification, to provide architectural, quantity surveying or building surveying services, as the case may be, in the State, submit the following to the Admissions Board:

(*a*) a declaration of his or her intention to provide the services in accordance with Article 7 of the Directive, which declaration shall include details of insurance or other means of personal or collective protection with regard to professional liability;

(*b*) proof of his or her nationality;

(*c*) an attestation of the competent authority of the Member State where he or she is established that he or she is legally established in that state for the purposes of providing the activities concerned and is not prohibited from practising architecture, quantity surveying or building surveying, as the case may be, temporarily or otherwise, at the time of delivery of the attestation;

(*d*) evidence of the relevant professional qualifications; and

(*e*) if required by the Directive as respects an applicant who has moved from the Member State of establishment, evidence that he or she has performed functions commensurate with those of an architect, quantity surveyor or building surveyor as appropriate, in that Member State, for at least 2 of the 10 years preceding the application.

(3) If the occasion of the notification under *subsection (1)* is not the first occasion on which the person concerned has intended, on foot of such a notification, to provide the relevant services in the State, the Admissions Board may, if there has been a material change in the situation substantiated by any of the documentation referred

to in *paragraphs (b)* to *(d)* of *subsection (2)*, require the person to submit to it fresh documentation of the kind referred to in the paragraph or paragraphs concerned.

(4) If a period of more than 12 months has elapsed since the registration, pursuant to this section, of a person in the register under *Part 3*, *4* or *5* (and the period for which the person is so registered has not expired), the Admissions Board may, unless the person does not intend to provide the relevant services in the State in the ensuing period of 12 months, require the person to make a fresh declaration of his or her intention to provide the relevant services in accordance with Article 7 of the Directive; if the person does not make such a declaration, the Admissions Board may remove the person's name from the relevant register.

(5) (*a*) If a person who notifies the Admissions Board pursuant to *subsection (1)* fails to comply with *subsection (2)*, or as the case may be, with a requirement under *subsection (3)* then, subject to *paragraph (b)*, the Admissions Board shall decide not to register the person in the register.

(*b*) The Admissions Board may, at its discretion, afford the person the opportunity to remedy the failure referred to in *paragraph (a)*, and if the person does so within a reasonable time after being afforded that opportunity, the Admissions Board shall register the person in the register.

(6) Where the applicant is registered in the register under *Part 3* for a temporary period pursuant to this section, he or she shall use the title of architect while providing architectural services in the State until his or her registration ceases.

(7) Where the applicant is registered in the register under *Part 4* or *5* for a temporary period pursuant to this section and is providing quantity surveying or building surveying services in the State, he or she shall—

(*a*) if a professional title exists for the activity or quantity surveyor or building surveyor, as the case may be, in the Member State where he or she is legally established, use that title, which shall be indicated in the official language or one of the official languages of that Member State, or

(*b*) if no such professional title exists in the Member State where he or she is legally established, indicate his or her formal qualification in the official language or one of the official languages of that Member State,

in a way that avoids confusion with the title of quantity surveyor or building surveyor.

(8) The Admissions Board may, in pursuance of Article 9 of the Directive, require a person who is registered in the register under *Part 3*, *4* or *5* for a temporary period pursuant to this section to furnish to a person to whom he or she provides architectural, quantity surveying or building surveying services, as the case may be, in the State all or any of the information specified in that Article.

Registration body may seek assistance and make rules.

61.— (1) Subject to *subsection (2)*, a registration body may arrange with any person to assist it, or any other board or committee established under this Act, in the proper discharge of its or their functions.

(2) A registration body shall not make an arrangement referred to in *subsection (1)* as respects the discharge of the functions under *section 20*, *34*, *48* or *67* or *Part 6* .

(3) Subject to *subsection (4)*, a registration body may make rules for facilitating and carrying out its functions and the functions of the other boards and committees, including the Appeals Board, provided for under this Act.

(4) Before making rules, the registration body shall publish a draft of the rules and circulate them to the board or committee affected for its comments.

Registration body may specify fees.

62.— (1) A registration body may specify that a fee of a specified amount shall be payable to it in respect of the doing of any of the following, namely:

(*a*) processing applications for registration;

(*b*) the annual retention of a person's name in the register;

(*c*) restoring a person's name in the register after it has been erased pursuant to a provision of this Act;

(*d*) removing a person's name from the register on the application of that person;

(*e*) entering additional qualifications, not being qualifications required for the purpose of registration, of a person in the register;

(*f*) issuing a certificate of registration;

(*g*) providing any other service which the registration body may provide.

(2) A registration body may determine that in respect of the doing of any of the things referred to in *subsection (1)(a)* to *(g)* a fee of a different amount shall be payable by reference to the different circumstances in which it is done.

(3) A fee shall not be specified in accordance with *subsection (1)* without the approval of the Minister.

(4) The amount of a fee specified in accordance with *subsection (1)* shall not in any case exceed the total of—

(*a*) the costs in providing the services in respect of which the fee is paid, and

(*b*) the reasonable costs incurred by the registration body in collecting, accounting for and administering the fee.

Additional qualifications.

63.— (1) Subject to *subsection (2)* and payment of the specified fee, a person who is registered under *Part 3*, *4* or *5* may apply to the registration body, in the form and manner it determines, to have an additional qualification noted in the register.

(2) The registration body shall determine what additional qualifications other than those required for registration may be noted in the register.

Regulations.

64.— (1) The Minister may make regulations for prescribing any matter referred to in this Act as prescribed or to be prescribed, or in relation to any matter referred to in this Act as the subject of regulations.

(2) Regulations under this Act may contain such incidental, supplemental and consequential provisions as appear to the Minister to be necessary or expedient.

(3) Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of any previously done thereunder.

Annotations

Editorial Notes:

E15 Power pursuant to section exercised (9.03.2022) by *Building Control (Prescribed Qualifications) Regulations 2022* (S.I. No. 114 of 2022).

E16 Power pursuant to section exercised (21.10.2020) by *Building Control (Prescribed Qualifications) Regulations 2020* (S.I. No. 468 of 2020).

E17 Power pursuant to section exercised (3.07.2018) by *Building Control (Prescribed Qualifications) Regulations 2018* (S.I. No. 233 of 2018).

E18 Power pursuant to section exercised (12.12.2014) by *Building Control (Prescribed Qualifications) Regulations 2014* (S.I. No. 566 of 2014).

E19 Power pursuant to section exercised (10.09.2012) by *Building Control (Prescribed Bodies and Courses) Regulations 2012* (S.I. No. 341 of 2012).

Correction of register.

65.— (1) For the purpose of keeping a register provided for under this Act, the Registrar thereof shall correct all verbal and clerical errors in such register, remove therefrom all entries procured by fraud or misrepresentation, enter in the register every change which comes to the Registrar's knowledge in the addresses of registered professionals, and remove therefrom the names of all persons whose death has either been notified to, or comes to the knowledge of, the Admissions Board.

(2) Where the Registrar takes any action under *subsection (1)*, the Registrar shall forthwith notify the person concerned or next of kin, as the case may be, if such person can be identified, of the action taken and the reasons therefor.

Expenses of registration bodies, boards and committees, etc.

66.— (1) Expenditure incurred by a registration body in the performance of its functions under this Act shall be defrayed by the registration body from funds at its disposal.

(2) There shall be paid to the chairpersons and other members of any board or committee established under this Act by a registration body such remuneration and allowances for expenses as the registration body may determine and payment of such remuneration and allowances shall be made from funds at the disposal of the registration body.

Prosecution of offences under this Act.

67.— (1) Summary proceedings for an offence under *Part 3*, *4*, *5* or *6* may be brought and prosecuted by the registration body.

(2) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under this Act may be commenced—

(*a*) within 12 months from the date on which the offence was committed, or

(*b*) within 6 months from the date on which evidence sufficient, in the opinion of the person instituting the proceedings, to justify proceedings comes to that person's knowledge,

whichever is later, provided that no such proceedings shall be commenced later than 5 years from the date on which the offence concerned was committed.

(3) For the purposes of this section, a certificate signed by or on behalf of the person initiating the proceedings as to the date on which evidence referred to in *subsection (2)(b)* came to his or her knowledge shall be evidence of that date and, in any legal proceedings a document purporting to be a certificate under this section and to be so signed shall be admitted as evidence without proof of the signature of the person purporting to sign the certificate, unless the contrary is shown.

(4) It shall be presumed, until the contrary is shown, that proceedings for an offence under this Act were commenced within the appropriate period.

Evidential value of an extract from register.

68.— (1) In any proceedings, a certificate signed by the Registrar containing only information stated to be taken from the registration records under the control of the Registrar shall be sufficient evidence of the facts stated therein, until the contrary is shown.

(2) In any proceedings, a document purporting to be a certificate under *subsection (1)* shall be deemed to be such a certificate and to have been signed by the Registrar concerned, until the contrary is shown.

(3) A certificate under this section that purports to bear a facsimile of the signature of the Registrar concerned or a copy of such signature applied by means of a stamp or produced by a computer shall be deemed for the purposes of this section to have been signed by the Registrar, until the contrary is shown.

Nomination to boards or committees and elections.

69.— (1) Subject to *subsection (2)*, any persons nominated by a registration body for appointment by the registration body to a committee or board established under *Part 3*, *4* or *5* shall be chosen for the purposes of such nomination by means of an election in accordance with bye-laws made by the body under this section.

(2) *Subsection (1)* does not apply to—

(*a*) nominations for the purposes of the first appointments made by a registration body of persons to a committee or board referred to in that subsection, or

(*b*) the nomination of a person by a registration body for the purposes of the person's appointment by the body to fill a casual vacancy that arises amongst the persons the subject of those first appointments.

(3) For the purposes mentioned in *subsection (1)*, a registration body shall, with the consent of the Minister, make bye-laws providing for the election, by persons of the following class, of persons from among that class, namely, persons who are registered or eligible to be registered under *Part 3*, *4* or *5*, as the case may be (and who are not excluded from that class by virtue of bye-laws under *subsection (4)*).

(4) Bye-laws made by the registration body may exclude from the foregoing class any person who is not resident in the State at a specified date or who does not comply with any specified condition or requirement which the registration body considers appropriate to specify in the bye-laws for the purposes of ensuring that the bye-laws operate in a practical manner.

(5) Bye-laws under this section shall provide that the election referred to in *subsection (3)* shall be held by means of a ballot and in a manner specified in the bye-laws.

(6) Bye-laws under this section may provide for such supplemental, incidental and consequential matters as the registration body that makes them considers necessary or expedient, including the deeming of candidates to be elected without an election having to be held, where the number of persons validly selected as candidates in the proposed election is less than or equal to the number of vacancies in the board or committee to which the proposed election relates.

Tenure of members of boards, etc., appointed by registration body.

70.— (1) A person appointed by a registration body to be a member of a board or committee established by it under this Act shall hold office for a period of 3 years, unless he or she sooner dies or resigns.

(2) No person appointed pursuant to a section of this Act shall hold office under that section for more than 2 consecutive terms of office.

(3) A member of a board or committee referred to in *subsection (1)* may resign from office by giving notice to the registration body in writing signed by him or her and the resignation shall take effect at the next meeting of the registration body.

(4) (*a*) Any requirement (whether as to consultation, obtaining of another's approval or otherwise) that applies with respect to the nomination of a person for appointment to a board or committee established under this Act shall apply to the nomination of a person for appointment to fill a casual vacancy amongst the membership of the board or committee.

(*b*) Where the term of office of a member of a board or committee established under this Act terminates otherwise than by reason of effluxion of time, the period of office of the person appointed to fill the vacancy occasioned by that other's ceasing to hold office shall be specified to be the unexpired period of that other's term of office.

(5) The registration body may make rules specifying grounds (such as repeated absence from meetings or unacceptable professional conduct) on which a member of a board or committee referred to in *subsection (1)* may be removed from office and the procedure for such removal and for so long as rules under this subsection are in force such a member may be removed from office subject to and in accordance with the rules.

Proceedings at meetings of boards or committees.

71.— (1) A board or committee established under this Act by a registration body shall hold such meetings as it considers necessary for the performance of its functions.

(2) The chairperson and each other member of such a board or committee shall have a vote.

(3) At a meeting of such a board or committee, the chairperson or, in the chairperson's absence a member chosen by those present, shall chair the meeting.

(4) Every question at a meeting referred to in *subsection (3)* shall be determined by a majority of votes of members present and the chairperson shall have a casting vote in the event of an equal division.

(5) The quorum for such a meeting shall be—

(*a*) F32**[**5**]** members in the case of a Professional Conduct Committee, or

(*b*) 4 members in any other case,

of which, subject to *subsection (6)*, the majority shall be members who were nominated for appointment as members of the board or committee, as the case may be, by the Minister.

(6) There may be reckoned for the purposes of that majority the chairperson of the board or committee, as the case may be, if he or she is present at the meeting.

(7) An Admissions Board, Technical Assessment Board, Appeals Board or Professional Conduct Committee may perform its functions whether or not there is a vacancy in its membership and none of its proceedings are invalidated by any defect in the appointment of a member to it.

Annotations

Amendments:

F32 Substituted (29.08.2022) by *Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022* (15/2022), s. 78, S.I. No. 429 of 2022.

Functions in relation to regulations or directives of the Council of the EU or the European Parliament.

72.— A registration body, or a board or committee established under this Act by a registration body, shall carry out such additional functions as may be assigned to it, by regulation made by the Minister, in relation to the implementation of an act adopted by an institution of the European Communities with respect to the relevant profession.

Annual report by registration body.

73.— (1) A registration body shall, as soon as may be after the end of each year, prepare a report of its proceedings under this Act during that year.

(2) That report shall include a copy of the body's accounts for the year concerned in so far as they relate to its income and expenditure in respect of the performance of its functions under this Act during that year and those accounts shall be accounts that have been certified by an auditor who has been appointed to carry out an audit of them for the year concerned.

(3) As soon as may be after the preparation of such a report, the registration body shall cause—

(*a*) the report, with the copy of the foregoing accounts included in it, to be published, and

(*b*) copies of the report, with the foregoing certification in respect of those accounts included in each such copy, to be made available for purchase by members of the public.

Number 21 *of* 2007

BUILDING CONTROL ACT 2007

REVISED

Updated to 29 August 2022

About this Revised Act

This revision presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Building Control Acts 1990 to 2020: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Planning and Development, and Residential Tenancies Act 2020* (27/2020), s. 1(2)(b)). The Acts in the group are:

- *Building Control Act 1990* (3/1990)
- *Building Control Act 2007* (21/2007)
- *Local Government Reform Act 2014* (1/2014), s. 1(7), 5(5) and sch. 2 part 3 (in so far as it relates to the *Building Control Acts 1990 to 2014*)
- *Planning and Development, and Residential Tenancies Act 2020* (27/2020), s. 5

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found in the Legislation Directory at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022* (15/2022)
- *Local Government Act 2019* (1/2019)
- *Court of Appeal Act 2014* (18/2014)
- *Local Government Reform Act 2014* (1/2014)
- *Qualifications and Quality Assurance (Education and Training) Act 2012* (28/2012)
- *Local Government (Household Charge) Act 2011* (36/2011)
- *Multi-Unit Development Act 2011* (2/2011)

All Acts up to and including *Electoral Reform Act 2022* (30/2022), enacted 25 July 2022, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Building Control (Prescribed Qualifications) Regulations 2022* (S.I. No. 114 of 2022)
- *Building Control (Prescribed Qualifications) Regulations 2020* (S.I. No. 468 of 2020)
- *Building Control (Prescribed Qualifications) Regulations 2018* (S.I. No. 233 of 2018)
- *European Union (Recognition of Professional Qualifications) (Amendment of Building Control Act 2007) Regulations 2014* (S.I. No. 616 of 2014)
- *Building Control (Prescribed Qualifications) Regulations 2014* (S.I. No. 566 of 2014)
- *Building Control (Prescribed Bodies and Courses) Regulations 2012* (S.I. No. 341 of 2012)
- *Multi-Unit Developments Act 2011 (Section 3) (Prescribed Persons) Regulations 2011* (S.I. No. 96 of 2011)
- *Building Control Act 2007 (Commencement) Order 2009* (S.I. No. 352 of 2009)
- *Building Control Act 2007 (Commencement) Order 2008* (S.I. No. 50 of 2008)

All statutory instruments up to and including *Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022 (Commencement) Order 2022* (S.I. No. 429 of 2022), made 23 August 2022, were considered in the preparation of this revision.