

**THE CONTRACTORS REGISTRATION (AMENDMENT)
ACT, 2008**

ARRANGEMENT OF SECTIONS

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THE UNITED REPUBLIC OF TANZANIA



No. 15 OF 2008

I ASSENT,

John Pombe Magu

President

06 December, 2008

An Act to amend the Contractors Registration Act, with a view to providing provisions for effective regulation of activities and maintenance of professional conduct and integrity of contractors and for related matters.

ENACTED by Parliament of the United Republic of Tanzania.

**PART I
PRELIMINARY PROVISIONS**

1. This Act may be cited as the Contractors Registration (Amendment) Act, 2008 and shall be read as one with the Contractors Registration Act, hereinafter referred to as the "principal Act."

Short title

**PART II
GENERAL AMENDMENTS**

2. The principal Act is amended in the long title, by inserting a "comma" and the words "development and promotion" between the words "registration" and "of."

Amendment of the long title

3. The principal Act is amended in section 2 by-

(a) deleting the definitions of the terms “contractor,” “certificate of compliance” and substituting for them the following:

“contractor” means-

(a) any person who for a reward or, other valuable consideration undertakes to carry out and complete any construction works for another person, of any structure situated below, on or above the ground or water bodies or other work connected therewith, where such person undertakes to do any such works-

- (i) himself supplies the material necessary for the work or is authorized to exercise control over the type, quality or the use of material supplied by any other person;**
- (ii) himself supplies the labour necessary for the work or is authorized on behalf of the person for whom the work is undertaken or any other person, to employ or select for employment workmen to assist him in the execution of the work; or**

(b) any person who for himself as a developer or investor, undertakes to carry and complete construction works of any structure for public or private use or other works connected therewith, where such person undertakes to do any such works-

- (i) himself supplies the labour necessary for the works or is authorized to exercise control over the type, quality or the use of material supplied by any other person; or**
- (ii) himself authorized on behalf of the person for whom the work is undertaken or any other person, to employ or select for employment workmen to assist him in the execution of the work;**

Provided that a person shall not be deemed to be contractor or otherwise carrying out works that need to be undertaken by contractor for the purpose of this Act if such a person undertakes or hold himself out as willing to undertake or undertakes construction of which its value does not exceed such a sum as shall be determined by the Board from time to time for different discipline of the construction industry; or undertakes or holds himself out as willing to undertake construction of a residential house (not for public use), which does not require an input of structural design.

“certificate of compliance” means a certificate of compliance issued by the Business Registration and Licensing Agency;

(b) inserting the following new definitions in their respective appropriate alphabetical order as follows:

“Building, Electrical, Mechanical and Civil works” means construction works related to Building, Electrical, Mechanical and Civil Engineering disciplines;

“construction works” means construction, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of-

- (a) any building, edifice, structure, wall, fence, or chimney whether constructed wholly or partly above or below ground level;
- (b) any road, harbour works, railway, cableway, canal, or aerodrome, bridge, viaduct, dam, reservoir, earthworks, pipeline, sewer, aqueduct, culvert, drive shaft, tunnel, or reclamation works, any drainage, irrigation or river control works;
- (c) any electrical, mechanical, water, gas, petrochemical or telecommunication, machine or any works which form an integral part of, or are preparatory to or temporary for the works described in paragraphs (a) to (b) above, including site clearance, soil improvement, earthmoving, site restoration and landscaping;

“period of contracted works” means the duration of execution of work including the defect liability period;

“technical qualifications, experience, skills, or conduct” means the technical qualifications, experience, skills, or conduct prescribed by the Board.

4. The principal Act is amended by repealing section 4 and substituting for it the following:

Amendment
of section 4

“Functions of
the
Board

4.-(1) Subject to the provisions of this Act and regulations made under it, the functions of the Board shall be to-

- (a) consider and decide upon application for registration and to effect registration of contractors;
- (b) prescribe fees for registration and annual subscription;
- (c) maintain a register of contractors;
- (d) regulate the activities, promote and maintain professional conduct and integrity of contractors;
- (e) inspect any site for construction works, for the purpose of verifying and ensuring that the works are being undertaken by registered contractors; and that the works comply with all governing regulations and laws of the country including requirements for safety, erection of a signboard which shows the names and address of the project, client consultant and contractors of the project, project registration sticker; and to take legal action against defaulters thereof;
- (f) take legal action against a firm, company, organization, partnership or individual person who undertakes construction works while without being registered under this Act;
- (g) promote, provide and coordinate training of contractors in areas related to construction works;
- (h) grant certificates and other awards of the Board;
- (i) sponsor, arrange and provide facilities for courses, workshops, conferences, seminars, discussion, symposia and consultation on matters relating to the subject referred to in paragraph (f);
- (j) arrange for the publication and general dissemination of materials produced in connection with the works and activities of the Board;
- (k) furnish managerial, technical and administrative advisory services to contractors;
- (l) liaise and interact with both local and international professional boards and association involved in and with the construction industry;
- (m) ensure that all construction sites are hoarded; and labour laws, occupational health and safety regulations in the construction industry are adhered to;
- (n) set criteria for registration and classification of contractors into different types, categories and classes and to set class limits of projects to be executed by the contractors;
- (o) review the registration criteria of contractors;

- (p) review registered contractors with a view to ensuring that they meet the registration criteria applicable to the types, categories and classes concerned;
- (q) consider applications for dispensation for specific contracts by clients or their consultants on behalf of registered contractors;
- (r) issue stop orders against any person or firm which contravenes the Act;
- (s) register construction project for the purpose of regulation;
- (t) assess the competence and capability of any contractor in the course of executing any project within Mainland Tanzania;
- (u) settle disputes or complaints amongst contractors themselves and their employees, consultants, suppliers, manufacturers or clients presented to the Board for that purpose; and
- (v) carry out any other functions which are in the public interest and which the Minister may in writing direct.

(2) The Board may, with consent of the Director of Public Prosecutions, have the power to prosecute offences committed under this Act.”

5. The principal Act is amended by repealing section 5 and substituting for it the following:

Amendment
of section 5

“Limitation
of
liabilities

5. A member or employee of the Board shall not be personally liable for any act or default of the Board done or omitted in good faith in the course of carrying out the responsibilities and function of, or exercising the powers conferred upon him by the board or management.”

6. The principal Act is amended in section 7-

Amendment
of section 7

- (a) in subsection (1), by deleting the phrase “showing against his name” appearing in the last line and substituting for it the phrase “containing particulars of contractors.”
- (b) In subsection 2 by-
 - (i) inserting the word “works” between the words “building” and “contractors” appearing in paragraph (a);

(ii) deleting paragraphs (c), (d) and (e) and substituting for them the following:

- “(c) electrical works contractors;
- (d) mechanical works contractors;
- (e) specialist contractors in works party or wholly as specified in paragraphs (a), (b), (c) and (d).”

7. The principal Act is amended in section 8 by-

Amendment
of section 8

(a) deleting subsection (1) and substituting for it the following:

“(1) The Registrar shall, by notice in the *Gazette* as soon as practicable after Registration, publish the names, postal and physical addresses, registration number, type, category and class registered in and names and qualifications of partners or directors of the contractor.”

(b) deleting subsection (3) and substituting for it the following:

“(3) The Registrar shall, by notice in the *Gazette* as soon as practicable after the first day of January in each year publish a list containing the names, postal and physical address, premise, registration number, type, category and class of all registered contractors remaining on the registers after the thirty first day of December of the previous year.”

8. The principal Act is amended in section 9 by deleting subsection (1) and substituting for it the following:

Amendment
of section 9

“(1) A publication under the provisions of section 8, shall be *prima facie* evidence that any person’s name in the register is registered under this Act, and the deletion from the register of the name of any person notified by that publication, shall be *prima facie* evidence that such a person is not so registered.”

9. The principal Act is amended in section 10-

Amendment
of section 10

- (a) in subsection (1)
 - (i) by deleting paragraph (b) and substituting for it the following:-

“(b) that he has the necessary experience in construction works as prescribed by the Board;”

- (ii) by adding immediately after paragraph (d) the following new paragraph-

“(e) that he is registered with or holds a certificate of compliance issued by the Business Registration and Licensing Agency,”

- (b) in subsection (3) by inserting the words “in the case of temporary registration” between the word “and” and the words “duration” appearing in the last line;

- (c) by deleting subsection (4) and substituting for it the following new provision:

“(4) The certificate issued under subsection (3), shall remain the property of the Board and non transferable and shall, upon suspension or cancellation of registration, be withdrawn and returned to the Board.”

10. The principal Act is amended by adding immediately after section 10 the following new section-

Addition
of section
10A

“Restriction
to carry out
construction

10A. No person, or firm shall undertake or cause to carry out and complete any construction works unless such person or firm is registered by the Board, and holds a valid certificate of registration.”

11. The principal Act is amended in section 11-

Amendment
of section 11

- (a) in subsection (3), by adding immediately after the word “Board” appearing at the end of that subsection the phrase “within twenty-one days of the expiration of the period of the contracted works.”

- (b) by adding immediately after subsection (4) the following new subsection:

“(5) Where the project is executed in phases, the Board may extend the duration of the project, on conditions to be prescribed by the Board.”

- (c) by re-designating subsections (5) and (6) as subsections (6) and (7).

12. The principal Act is amended in section 12-

Amendment
of
section 12

- (a) in sub-section (1) by inserting the words “of authorized capital” between the words “shares” and “are” appearing in the last line.
- (b) by deleting subsection (2) and substituting for it the following:

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“(2) Any person, firm or company which hires the services or employs a contractor by virtue of section 46(2) and (3) of the Public Procurement Act, shall be required to ensure that all fees payable under the provisions of this Act are paid.

(3) An application for registration under this section shall be submitted to the Board by a client, firm or company in the prescribed form and shall be accompanied by the prescribed fees.

(4) Subject to the provisions of sub-section (2) and (3), the Board may require an employer of a firm or company to appear before it for the purpose of ascertaining-

- (a) documentary evidence to the effect that a firm or company is competent to execute construction works in respect of which it has or is about to enter into contract in Tanzania;
- (b) provisions in the proposed contract for construction works, addressing temporary registration requirements as specified in section 11;”
- (c) by re-designating subsection (3) as subsection (5).

13. The principal Act is amended by adding immediately after section 12 of the following new section:

Addition of
section 12A

"Notification
of changes"

12A. The contractor shall notify any change of the directors, partners or other shareholders of the firm to the Board within twenty-one days."

14. Section 13 of the principal Act is amended-

Amendment
of
section 13

(a) in subsection (1), by deleting paragraphs (e) and (f) and substituting for them the following:

- "(e) abandoned any construction works undertaken;
- (f) been found guilty by the Board by being negligent in connection with any construction works undertaken;
- (g) contravened, or failed to perform, or assisted in the contravention of any terms, conditions or restrictions imposed by the Board;
- (h) been adjudicated bankrupt;
- (i) a winding-up petition against him; or
- (j) contravened or failed to comply with any provisions of this Act or regulations made under this Act."

(b) by inserting immediately after subsection (1) the following new subsection-

"(2) Where a contractor has failed to pay the annual subscription fees for two consecutive years, before the Board decides to suspend or revoke registration of a contractor, it shall-

- (a) send to such contractor by post or registered letter, a notice in writing containing statement of a complain reveled against that contract or;
- (b) afford such contractor an opportunity of being heard."

(c) by renumbering subsections (2), (3), (4) and (5) as subsections (3), (4), (5) and (6) respectively.

15. Section 14 of the principal Act is amended in subsection (3), by deleting the phrase "an application for" appearing in the last line.

Amendment
of
section 14

16. Section 15 of the principal Act is amended in subsection (1) by deleting paragraph (d) and substituting for it the following:

Amendment
of
section 15

“(d) has a business licence which has not been issued by the Business Registration and Licensing Agency.”

17. Section 16 of the principal Act is amended-

(a) deleting subsection (3) and substituting for it the following new subsections:

Amendment of
section 16

“(3) All summons or notices issued by the Registrar shall be deemed to be issued by the Board.

(4) All orders under the hand of the chairman or Vice Chairman of the Board shall be deemed to be issued by the Board.”

(b) by re-designating subsections (4), (5) and (6) as subsections (5), (6), and (7) respectively.

(c) In subsection (6) as re-designated by deleting the words “have power to” appearing on the second line.

18. The principal Act is amended in section 19 by-

Amendment
of
section 19

(a) deleting paragraph (c);

(b) re-designating paragraph (d) as (c);

19. Section 21 of the principal Act is amended by deleting the word “contraction” which appears between the words “such” and “thereof” and substituting for it the word “title.”

Amendment
of
section 21

20. The principal Act is amended in section 22 by adding immediately after subsection (2) the following new subsections:

Amendment
of
section 22

“(3) Any person or firm being registered contractor allows another person who is or firm which is not registered as a contractor to use his name, style or title for the purpose of carrying on business as a contractor commits an offence and upon conviction shall be liable to a fine not less than ten percent of the contract sum or project value or five million shillings whichever amount is greater or to imprisonment for a term of not less than one year or to both.

(4) An employer or developer who engages an unregistered firms or persons commits an offence and on conviction is liable to a fine of not exceeding ten percent of the contract sum or project value but not less than one percent of such contract sum or project value or five million shillings whichever amount is greater or to imprisonment for a term of not less than three years or to both.

(5) The provisions of this Act shall have effect notwithstanding anything inconsistent with this Act contained in any particular law other than this Act or in any instrument having effect by virtue of any written law other than this Act.”

21. The principal Act is amended in section 23-

Amendment
of
section 23

- (a) in subsection (1), by adding the words “under this Act” immediately after the word “registered” appearing at the last line;
- (b) by deleting subsections (2), (3), (4) and (5) and substituting for them the following new subsections;

“(2) Where a director who is also a shareholder or partner referred to in subsection (1) resigns, becomes incapacitated or dies, such firm or company may, notwithstanding the provisions of subsection (1), be allowed to complete the ongoing project or contract as if the legal representatives of the firm or company were registered contractors and where such firm or company shall fail to secure a technical director within a year after the occurrence of the event specified herein it shall be deregistered by the Board.

(3) No person or firm shall continue carrying on business as a contractor without first reporting to the Board within twenty-one days after the occurrence of any of the events specified under subsection (2).

(4) A firm or company after fulfilling the conditions for registration, may be registered as a contractor and where so registered, may lawfully carry on business as a registered contractor.

(5) The Board may refuse to register a firm or company as contractors or direct the deletion from the register of the name of a firm or company registered as such if it is satisfied that none of the directors or partners has technical qualifications as prescribed by the Board.”

- (c) by adding immediately after subsection (5) the following new subsection

“(6) References in this Act to the required technical qualifications, experiences, skills or conduct as prescribed by the Board shall be construed as reference to the required technical qualifications, experiences, skill or conduct of persons who are directors or partners, as the case may be, or are employed by, such firm or company and who are participating or, in the case of an application, shall participate, in the activities of the firm or company in carrying out its business as registered contractors.”

- (d) by re-designating subsection (6) as subsection (7).

- (a) by deleting subsection (2) and substituting for it the following-

“(2) The auditors shall submit the audited accounts to the Board not later than three months after the end of the financial year to which they relate.

(3) The Board Chairman shall submit to the Minister the report referred to under subsection (2).”

22. The principal Act is amended in section 26-

Amendment
of
section 26

- (a) in subsection (1), by adding immediately after paragraph (b) the following new paragraph-
“(c) cash flow statement of that financial year;”

- (b) by deleting subsection (2) and substituting for it the following-

“(2) The auditors shall submit the audited accounts to the Board not later than three months after the end of the financial year to which they relate.

(3) The Board Chairman shall submit to the Minister the report referred to under subsection (2).”

23. The principal Act is amended in section 27 by deleting the title “Registrar” appearing in the marginal notes and in that section and substituting for it the word “Board.”

Amendment Of section 27

24. The principal Act is amended in section 32 by adding immediately after paragraph (c) the following new paragraph-

Amendment of section 32

“(d) knowingly or willfully disobeys any lawful order, direction, notice or summons issued by the Board or Registrar.”

25. The principal Act is amended by repealing section 33 and substituting for it the following:

Amendment of section 33

“Annual returns

33.-Every registered contractor shall be required to prepare in the manner prescribed and submit annual returns to the Board.”

26. The principal Act is amended in section 34 by-

Amendment of section 34

(c) adding immediately after paragraph (e) the following new paragraph-

“(f) procedures and processes for making stop-orders against defaulting contractors”;

(d) re-designating paragraph (f) as paragraph (g).

27. The principal Act is amended by adding immediately after section 32 the following new section-

Addition of section 32A

“Power to compound offences

32A.-(1) The Registrar may, subject to subsection (2) compound an offence committed under this Act by requiring a person to pay such an amount as the Board may direct.

(2) The power conferred under this section shall be exercised where the person admits in writing that he has committed an offence and that he agrees to the offence being compounded under this section

(3) The Registrar shall-

- (a) give a receipt to the person from whom he receives the amount of money;
- (b) submit to the Board in every three months a list of compounded offense that have been compounded within that period."

28. The principal Act is amended in section 35 by-

Amendment
of
section 35

- (a) deleting paragraph (f) and substituting for it the following new paragraphs-

~ (f) prescribing the manner in which annual returns shall be submitted to the Board;

- (g) prescribing procedures for registration of foreign contractors;

- (b) by renaming paragraphs "(g) to "(m)" as paragraphs "(h)" to "(o)" respectively;"

29. The principal Act is amended by adding immediately after section 35 the following new section

Addition
of
section 35A"Notice of
closure of
construction

35A.-(1) Where the Board finds that construction works are being undertaken or carried out by a firm or individual who is not registered with the Board or there is an omission or commission which contravenes the provisions of this Act, the Board shall by notice in the prescribed form require such person to stop construction works or otherwise rectify the omissions or commission, as the case may be.

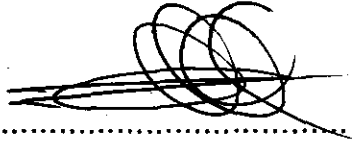
(2) A person who fails to comply with the requirements of the notice issued under subsection (1) commits an offence and upon conviction, shall be liable to a fine not less than three million shillings but not more than five million shillings or to imprisonment for term of three years and, in the case of continuing offence, to a fine not exceeding one hundred thousand shillings for every day or part of a day during which commission of the offence continues."

30. The Schedule to the principal Act is amended in subparagraph 1 of paragraph 1-

Amendment
of the
Schedule

- (a) by deleting the word "eight" appearing in the second line and substituting for it the word "nine";
- (b) by deleting item (b) and substituting for it the following-
 - "(b) two members from the contractors association being contractors registered in Tanzania;"

Passed in the National Assembly on the 28th October, 2008.



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Acting Clerk of the National Assembly