

No. S 33

**CONSTITUTION OF BRUNEI DARUSSALAM
{Order made under Article 83(3)}**

**ARCHITECTS, PROFESSIONAL ENGINEERS AND
QUANTITY SURVEYORS ORDER, 2011**

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**CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))**

**ARCHITECTS, PROFESSIONAL ENGINEERS AND
QUANTITY SURVEYORS ORDER, 2011**

In exercise of the power conferred by Article 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

PART I

PRELIMINARY

Citation, commencement and long title.

1. (1) This Order may be cited as the Architects, Professional Engineers and Quantity Surveyors Order, 2011 and shall commence on a date to be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification in the *Gazette*.

(2) The long title of this Order is "An Order to establish the Board of Architects, Professional Engineers and Quantity Surveyors, to provide for the registration of architects, professional engineers and quantity surveyors, to regulate the qualifications and practice of architects, professional engineers and quantity surveyors, and the supply of architectural, professional engineering and quantity surveying services in Brunei Darussalam by corporations and multi-discipline partnerships.

Interpretation.

2. In this Order, unless the context otherwise requires —

"allied professional" means —

(a) an architect, other than a naval architect or a landscape architect, who is registered under this Order;

(b) a professional engineer who is registered under this Order; or

(c) a quantity surveyor who is registered under this Order;

"architectural services" includes selling or supplying for gain or reward any architectural plan, drawing, tracing or the like for use in the construction, enlargement or alteration of any building or part thereof;

"Board" means the Board of Architects, Professional Engineers and Quantity Surveyors established under section 4(1);

"building" means any permanent or temporary building or structure and includes —

(a) a hut, shed or roofed enclosure which includes a kiosk or stall, movable or otherwise;

(b) an earth retaining or stabilising structure, whether permanent or temporary;

(c) a dock, wharf or jetty;

(d) a floating structure, not being a boat or vessel, constructed or to be constructed on a floatation system that —

(i) is or is to be supported by water;

(ii) is not intended for or useable in navigation; and

(iii) is or is to be permanently moored;

(e) a culvert, crossing, access road, bridge, underpass or tunnel;

(f) a sewage treatment plant, sewer, drain, swimming pool or any non-proprietary type of concrete tank for the storage of any solid, liquid or gaseous product; and

(g) such other erection or structure (whether permanent or temporary) as the Minister may, by order published in the *Gazette*, declare to be a building;

"building authority" means any person empowered to approve plans of building works;

"building works" means —

(a) the erection, extension or demolition of a building;

(b) the alteration, addition or repair of a building;

(c) the provision, extension or alteration of any air-conditioning service or ventilating system in or in connection with a building;

(d) site formation works (which includes earthworks such as levelling, cutting and filling) which may or may not be connected with or carried out

for the purpose of paragraph (a), (b) or (c); and

(e) structural works.

"certificate of registration" means the certificate of registration issued under section 20(1);

"licence" means a licence to supply architectural, professional engineering or quantity surveying services in Brunei Darussalam granted under section 27;

"Minister" means the Minister for the time being charged with the responsibility for development;

"practising certificate" means an annual certificate issued under section 25 authorising the holder thereof to engage in the practice of architecture, professional engineering or quantity surveying in Brunei Darussalam;

"professional engineering services" means consultancy or advisory services that require a person to engage in professional engineering work;

"professional engineering work" includes any service, consultation, investigation, evaluation, planning, design, or responsible supervision of construction or operation in connection with any public or privately owned public utilities, buildings, machines, equipment, processes, works or projects wherein the public interest and welfare, or the safeguarding of life, public health or property is concerned or involved, and that requires the application of professional engineering principles and data;

"register of architects" means the register of architects referred to in section 8(1)(a);

"register of licensees" means the register of licensees referred to in section 8(1)(e);

"register of practitioners" means the register of practitioners referred to in section 8(1)(d);

"register of professional engineers" means the register of professional engineers referred to in section 8(1)(b);

"register of quantity surveyors" means the register of quantity surveyors referred to in section 8(1)(c);

"registered architect" means a person registered as an architect under section 17;

"registered professional engineer" means a person registered as a

professional engineer under section 17;

"registered quantity surveyor" means a person registered as a quantity surveyor under section 17;

"Registrar" means the Registrar of the Board appointed under section 9.

Order not to apply to Government.

3. (1) Nothing in this Order shall apply to anything done or omitted to be done by the Government or by a public officer under the authority of the Government.

(2) This Order shall not be construed as requiring any public authority which supplies architectural, professional engineering or quantity surveying services in Brunei Darussalam under the provisions of any written law to obtain a licence.

(3) In subsection (2), "public authority" means any body established by or under any written law and exercising powers vested therein by any written law for a public purpose.

PART II

**BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS AND
QUANTITY SURVEYORS**

Establishment of Board of Architects, Professional Engineers and Quantity Surveyors.

4. (1) There is hereby established a board known as the Board of Architects, Professional Engineers and Quantity Surveyors.

(2) The Board shall consist of the following members —

(a) the Permanent Secretary, Ministry of Development *ex-officio* who shall be the Chairman;

(b) 10 other members to be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan who have the relevant qualifications, knowledge or experience in the following fields —

- (i) architecture;
- (ii) professional engineering;
- (iii) quantity surveying.

(3) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, appoint one of the members to be the Deputy Chairman.

(4) If the Chairman is unable to exercise his functions under this Order due to illness, absence from Brunei Darussalam or for any other cause, his functions shall be exercised by the Deputy Chairman.

(5) The period of appointment of members under section 4(2)(b) shall be 3 years but he shall be eligible for re-appointment.

(6) A person shall not be appointed under section 4(2)(b) to be a member —

(a) if he is an undischarged bankrupt or has made any arrangement or composition with his creditors;

(b) if he is convicted of any offence involving fraud, dishonesty or moral turpitude, or of any other offence implying a defect in character which makes him unfit for the architectural, professional engineering or quantity surveying professions;

(c) if he is of unsound mind or incapacitated by physical illness; or

(d) if he has at any time, after due inquiry, been found guilty by the Board of improper conduct.

(7) The office of a member appointed under sections 4(2)(b) shall become vacant if he —

(a) resigns or is removed from office; or

(b) becomes in any manner disqualified from office within the meaning of subsection (6),

and any vacancy shall as soon as practicable be filled in the manner in which the appointment to the vacant office was made; and every person so appointed shall hold office for the residue of the term for which his predecessor was appointed.

(8) All acts done by the Board shall, notwithstanding any vacancy in the Board or that it is afterwards discovered that there was a defect in the appointment of any person purporting to be a member thereof, be valid as if no such vacancy or defect had existed.

(9) Any question as to whether a person has ceased to be a member of the Board shall be determined by the Minister whose decision shall be final.

Meetings of Board.

5. (1) In the absence of the Chairman from any meeting of the Board, the Deputy Chairman shall be the Chairman for that meeting and if the Deputy Chairman is also absent, the Minister shall elect any other member to be Chairman for that meeting.

(2) The *quorum* of the Board shall be 6.

(3) Decisions of the Board shall be taken by a simple majority of votes and in the event of equality of votes, the Chairman or, in his absence the Deputy Chairman or any other member presiding over the meeting, shall have a casting vote.

(4) Subject to the provisions of this Order, the Board may determine its own procedure.

(5) The Board shall cause proper records of its proceedings to be kept.

Functions of Board.

6. The functions of the Board shall be —

(a) to keep and maintain a register of architects, professional engineers and quantity surveyors, a register of the architectural, professional engineering and quantity surveying practitioners and a register of licensees;

(b) to hold or arrange for the holding of such examinations as the Board considers necessary for the purpose of enabling persons to qualify for registration under this Order;

(c) to approve or reject applications for registration under this Order or to approve any such application subject to such restrictions as the Board may consider fit to impose;

(d) to cancel, remove or reinstate any registration;

(e) to recommend, with the approval of the Minister, the scale of fees to be charged by architects, professional engineers and quantity surveyors for architectural, professional engineering and quantity surveying services rendered;

(f) to establish, maintain and develop standards of professional conduct and ethics of the architectural, professional engineering and quantity surveying professions;

(g) to promote learning and education in connection with architectural, professional engineering and quantity surveying;

(h) to hear and determine disputes relating to professional conduct or ethics of registered architects, professional engineers and quantity surveyors or to appoint a committee or arbitrator to hear and determine those disputes;

(i) to appoint arbitrators for the purpose of hearing and determining disputes between registered architects, professional engineers or quantity surveyors or licensed corporations or partnerships and other persons;

(j) to license corporations or multi-discipline partnerships which intend to supply architectural, professional engineering or quantity surveying services in Brunei Darussalam; and

(k) generally to do all such acts, matters and things as are necessary to be carried out under the provisions of this Order.

Committees.

7. The Board may appoint such committees from among its members, registered architects, registered professional engineers or registered quantity surveyors as it thinks fit to assist or advise the Board on such matters arising out of its functions under this Order as are referred to them by the Board.

Registers.

8. (1) The Board shall keep and maintain at its office —

(a) a register of architects in which shall be entered the names of all persons registered under this Order, the business addresses, the qualifications by virtue of which they are so registered and such other particulars as may be determined by the Board;

(b) a register of professional engineers in which shall be entered the names of all persons registered under this Order, the business addresses, the qualifications by virtue of which they are so registered and such other particulars as may be determined by the Board;

(c) a register of quantity surveyors in which shall be entered the names of all persons registered under this Order, business addresses, the qualifications by virtue of which they are so registered and such other particulars as may be determined by the Board;

(d) an annual register of architectural, professional engineering and quantity surveying practitioners in which shall be entered the particulars as contained in the declaration made under section 25(3)(a);

(e) an annual register of licensees in which shall be entered the names and addresses of all corporations and partnerships which have been issued a

licence and such other particulars as may be determined by the Board.

(2) There shall be indicated against each person's name in the register of professional engineers the branch or branches of professional engineering as in the opinion of the Board the registered professional engineer is qualified to practise.

Appointment and duties of Registrar.

9. (1) The Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, may appoint a Registrar of the Board for the purposes of this Order.

(2) The Registrar shall —

(a) be under the general direction of the Board;

(b) sign all certificates of registration, practising certificates and licences; and

(c) record all entries of registration, cancellation and reinstatement in the register of architects, the register of professional engineers, the register of quantity surveyors, the register of architectural, professional engineering and quantity surveying practitioners or the register of licensees.

(3) The Registrar shall attend all meetings of the Board and record the proceedings thereof, and shall conduct the correspondence and deal with such matters as may be assigned to him by the Chairman or the Board.

(4) The Registrar shall —

(a) as soon as practicable after 1st. January each year, prepare and publish in the *Gazette* a list containing the names, qualifications and addresses of all registered architects, registered professional engineers (in the case of professional engineers, including the branch or branches of professional engineering to which the qualifications relate) and registered quantity surveyors who have in force practising certificates; and

(b) publish in the *Gazette* the names, qualifications and addresses of architects, professional engineers and quantity surveyors added to, removed from or reinstated into the register of architectural, professional engineering and quantity surveying practitioners.

(5) In any proceedings, a list published under subsection (4) shall be sufficient evidence that the persons whose names appear therein are registered architects, registered professional engineers and registered quantity surveyors who have in force practising certificates.

- (6) The Registrar may offer for sale copies of the Registers.

PART III

PRIVILEGES OF ARCHITECTS, PROFESSIONAL ENGINEERS AND QUANTITY SURVEYORS

Illegal architectural practice.

10. (1) Subject to the provisions of this Order, no person shall draw or prepare any architectural plan, drawing, tracing, design, specification or other document intended to govern the construction, enlargement or alteration of any building or part thereof in Brunei Darussalam unless he is —

(a) a registered architect who has in force a practising certificate;

(b) under the direction or supervision of a registered architect who has in force a practising certificate; or

(c) authorised by the Board to work in collaboration (but without a right to any independent practice) with a registered architect who has in force a practising certificate authorising the registered architect to engage in that architectural service.

(2) The Board may grant its authorisation to any person under subsection (1)(c) subject to such conditions as it thinks fit to impose.

(3) Subject to the provisions of this Order, no person shall sign and submit to a building authority or a public authority —

(a) any architectural plan, drawing, tracing, design, specification or other document intended to govern the construction, enlargement or alteration of any building or part thereof in Brunei Darussalam; or

(b) any report, certificate or other document relating to the construction, enlargement or alteration of any building or part thereof which is required by any written law to be signed by an architect,

unless he is a registered architect who has in force a practising certificate.

(4) Subject to the provisions of this Order, no person shall use verbally or otherwise —

(a) the word "architect" or any other derivatives in connection with his business designation;

(b) the abbreviation "Ar." or "Arch." as a title before his name; or

(c) any word, name or designation that might lead to the belief that he is a registered architect,

unless he is a registered architect.

(5) Where the Board has authorised any person under subsection (1)*(c)* to work in collaboration with a registered architect, the Board may allow that person to use such addition to or derivative of the word "architect" as may be approved by the Board.

(6) Subject to the provisions of this Order, no person shall advertise or hold himself out or conduct himself in any way or by any means as a person who is authorised to supply architectural services in Brunei Darussalam, unless he is —

(a) a registered architect who has in force a practising certificate;

(b) a licensed body corporate;

(c) a licensed partnership;

(d) a licensed limited liability partnership; or

(e) a partnership consisting wholly of registered architects.

(7) Nothing in subsection (6) shall apply to prevent a body corporate that ceases to have in force a licence from carrying on any activity necessary to the winding-up of that body corporate.

(8) Subject to the provisions of this Order, no person shall supply or offer to supply architectural services in Brunei Darussalam unless he is —

(a) a registered architect who has in force a practising certificate and is doing so on his own account or as a partner in a licensed partnership or a partnership consisting wholly of registered architects who each has in force a practising certificate;

(b) an allied professional and is doing so only by reason of being a partner in a licensed partnership; or

(c) a licensed body corporate or limited liability partnership.

(9) Any person who contravenes subsections (1), (3), (4), (6) or (8) is guilty of an offence and liable on conviction —

(a) in respect of a first offence, to a fine not exceeding \$10,000; and

(b) in respect of a second or subsequent offence, to a fine not exceeding

\$20,000, imprisonment for a term not exceeding one year or both.

(10) Nothing in this section shall be construed to permit or authorise any licensed body corporate or partnership to supply any architectural services which it is not licensed to supply.

Illegal professional engineering practice.

11. (1) Subject to the provisions of this Order, no person shall engage in any of the prescribed branches of professional engineering work in Brunei Darussalam or draw or prepare any plan, sketch, drawing, design, specification or other document relating to any of the prescribed branches of professional engineering work in Brunei Darussalam unless he is —

(a) a registered professional engineer who has in force a practising certificate authorising him to engage in that branch of professional engineering work;

(b) under the direction or supervision of a registered professional engineer who has in force a practising certificate authorising the registered professional engineer to engage in that branch of professional engineering work; or

(c) authorised by the Board to work in collaboration (but without a right to any independent practice) with a registered professional engineer who has in force a practising certificate authorising the registered professional engineer to engage in that branch of professional engineering work.

(2) The Board may grant its authorisation to any person under subsection (1)(c) subject to such conditions as it thinks fit to impose.

(3) Subject to the provisions of this Order, no person shall sign and submit to a building authority or to a public authority —

(a) any plan, sketch, drawing, design, specification or other document relating to any professional engineering work in Brunei Darussalam; or

(b) any report on or a certificate or other document relating to any professional engineering work in Brunei Darussalam which is required by any written law to be signed by a professional engineer,

unless he is a registered professional engineer who has in force a practising certificate authorising him to engage in such branch of professional engineering work.

(4) Subject to provisions of this Order, no person shall use verbally or otherwise —

(a) the words "professional engineer" or "engineer" or any additions to or derivative of those words in connection with his designation;

(b) the abbreviation "Ir." or "Er." as a title before his name; or

(c) any word, name or designation that might lead to the belief that he is a registered professional engineer,

unless he is a registered professional engineer.

(5) Where the Board has authorised any person under subsection (1)(c) to work in collaboration with a registered professional engineer, the Board may allow that person to use such addition to or derivative of the words "professional engineer" or "engineer" as may be approved by the Board.

(6) Subject to the provisions of this Order, no person shall advertise or hold himself out or conduct himself in any way or by any means as a person who is authorised to supply professional engineering services in Brunei Darussalam, unless he is —

(a) a registered professional engineer who has in force a practising certificate;

(b) a licensed body corporate;

(c) a licensed partnership;

(d) a licensed limited liability partnership; or

(e) a partnership consisting wholly of registered professional engineers.

(7) Nothing in subsection (6) shall apply to prevent a body corporate that ceases to have in force a licence from carrying on any activity necessary to the winding-up of that body corporate.

(8) Subject to the provisions of this Order, no person shall supply or offer to supply professional engineering services in Brunei Darussalam unless he is —

(a) a registered professional engineer who has in force a practising certificate authorising him to engage in professional engineering work to which those services relate, and is doing so on his own account or as a partner in a licensed partnership or a partnership consisting wholly of registered professional engineers who each has in force a practising

certificate;

(b) an allied professional and is doing so only by reason of being a partner in a licensed partnership; or

(c) a licensed body corporate or limited liability partnership.

(9) Any person who contravenes subsections (1), (3), (4), (6) or (8) is guilty of an offence and liable on conviction —

(a) in respect of a first offence, to a fine not exceeding \$10,000; and

(b) in respect of a second or subsequent offence, to a fine not exceeding \$20,000, imprisonment for a term not exceeding one year or both.

(10) Nothing in this section shall be construed to permit or authorise any licensed body corporate or partnership to supply any professional engineering services which it is not licensed to supply.

(11) In this section, "prescribed branches of professional engineering work" means —

(a) civil engineering;

(b) electrical engineering;

(c) mechanical engineering; and

(d) such other branches of engineering as may be prescribed.

Illegal quantity surveying practice.

12. (1) Subject to the provisions of this Order, no person shall prepare for construction projects in Brunei Darussalam, any cost feasibility study reports, preliminary estimates, cost plans, documents and reports for pre-qualification of contractors, bills of quantities and other tender documents, tender estimates and reports, contract documents and valuations of works for interim payments, variation and final accounts, unless he is —

(a) a registered quantity surveyor who has in force a practising certificate;

(b) under the direction or supervision of a registered quantity surveyor who has in force a practising certificate; or

(c) authorised by the Board to work in collaboration (but without a right to any independent practice) with a registered quantity surveyor who

has in force a practising certificate authorising the registered quantity surveyor to engage in that quantity surveying service.

(2) The Board may grant its authorisation to any person under subsection (1)(c) subject to such conditions as it thinks fit to impose.

(3) Subject to the provisions of this Order, no person shall sign and submit to a building authority or to a public authority —

(a) any estimate, cost plan, bills of quantities or other document relating to any quantity surveying work in Brunei Darussalam; or

(b) any report, valuation of work, certificate or other document relating to any quantity surveying work in Brunei Darussalam which is required by any written law to be signed by a quantity surveyor,

unless he is a registered quantity surveyor who has in force a practising certificate.

(4) Subject to the provisions of this Order, no person shall use verbally or otherwise —

(a) the words "quantity surveyor", "building economist", "building cost consultant" or any additions to or derivative of those words in connection with his designation;

(b) the abbreviation "QS." or "Sr." as a title before his name; or

(c) any word, name or designation that might lead to the belief that he is a quantity surveyor,

unless he is a registered quantity surveyor.

(5) Where the Board has authorised any person under subsection (1)(c) to work in collaboration with a registered quantity surveyor, the Board may allow that person to use such addition to or derivative of the words "quantity surveyor" as may be approved by the Board.

(6) Subject to the provisions of this Order, no person shall advertise or hold himself out or conduct himself in any way or by any means as a person who is authorised to supply quantity surveying services in Brunei Darussalam, unless he is —

(a) a registered quantity surveyor who has in force a practising certificate;

(b) a licensed body corporate;

(c) a licensed partnership;

(d) a licensed limited liability partnership; or

(e) a partnership consisting wholly of registered quantity surveyors.

(7) Nothing in subsection (6) shall apply to prevent a body corporate that ceases to have in force a licence from carrying on any activity necessary to the winding-up of that body corporate.

(8) Subject to the provisions of this Order, no person shall supply or offer to supply quantity surveying services in Brunei Darussalam unless he is –

(a) a registered quantity surveyor who has in force a practising certificate and is doing so on his own account or as a partner in a licensed partnership or a partnership consisting wholly of registered quantity surveyors who each has in force a practising certificate;

(b) an allied professional and is doing so only by reason of being a partner in a licensed partnership; or

(c) a licensed body corporate or limited liability partnership.

(9) Any person who contravenes subsections (1), (3), (4), (6) or (8) is guilty of an offence and liable on conviction –

(a) in respect of a first offence, to a fine not exceeding \$10,000; and

(b) in respect of a second or subsequent offence, to a fine not exceeding \$20,000, imprisonment for a term not exceeding one year or both.

(10) Nothing in this section shall be construed to permit or authorise any licensed corporation or partnership to supply any quantity surveying services which it is not licensed to supply.

Remuneration for architectural, professional engineering or quantity surveying services rendered.

13. Subject to the provisions of this Order, no person shall be entitled to recover in any court any charge, fee or remuneration for any architectural, professional engineering or quantity surveying services rendered in Brunei Darussalam unless he is authorised by this Order to supply any of those services.

Employment of unregistered architect, unregistered professional engineer or unregistered quantity surveyor prohibited.

14. (1) Subject to the provisions of this Order, no person shall employ —

(a) as an architect, any person who is neither a registered architect nor has in force a practising certificate;

(b) as a professional engineer, any person who is neither a registered professional engineer nor has in force a practising certificate; or

(c) as a quantity surveyor, any person who is neither a registered quantity surveyor nor has in force a practising certificate.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction —

(a) in respect of a first offence, to a fine not exceeding \$2,000; and

(b) in respect of a second or subsequent offence, to a fine not exceeding \$5,000.

Minor building works.

15. Nothing in this Order shall be construed to prohibit or prevent any person not registered under this Order from carrying out work in respect of the construction of or repairs to any building or part thereof in any case in which plans are not required by any written law to be submitted to a building authority or to a public authority.

Relationship between architects and professional engineers.

16. (1) Nothing in this Part shall apply to prevent —

(a) an architect who has in force a practising certificate under this Order or any person under his direction or supervision; or

(b) a body corporate, partnership or limited liability partnership which is licensed under this Order to supply architectural services in Brunei Darussalam,

from carrying on any activity within the practice of architecture which he or it is authorised to carry on under this Order where to do so does not constitute a substantial part of services within the practice of professional engineering.

(2) Nothing in this Part shall apply to prevent —

(a) a professional engineer who has in force a practising certificate under this Order or any person under his direction or supervision; or

(b) a body corporate, partnership or limited liability partnership which is licensed under this Order to engage in professional engineering work in Brunei Darussalam,

from carrying on any activity within the practice of professional engineering which he or it is authorised to carry on under this Order where to do so does not constitute a substantial part of services within the practice of architecture.

PART IV

REGISTRATION OF ARCHITECTS, PROFESSIONAL ENGINEERS AND QUANTITY SURVEYORS

Qualifications for registration.

17. (1) Subject to this section, the following persons shall, on payment of the prescribed fee, be entitled to registration under this Order —

(a) any person who is a corporate member of an institution recognised by the Board;

(b) any person who holds any degree, diploma or any other qualification which the Board may approve for the purpose of entitling him to be a registered architect, a registered professional engineer or a registered quantity surveyor under this Order; or

(c) any person who satisfies the Board that he is otherwise qualified by having proper and recognised training in architecture or who has academic qualifications in professional engineering or quantity surveying and who passes such examinations as may be required by the Board.

(2) No person shall be entitled to registration under subsection (1) unless he satisfies the Board that he has, after obtaining his qualifications, acquired not less than 2 years of such practical experience in architectural, professional engineering or quantity surveying work as may be prescribed or approved by the Board (including practical experience in architectural, professional engineering or quantity surveying work in Brunei Darussalam for a continuous period of at least one year).

(3) No person shall be entitled to be registered as an architect, a professional engineer or a quantity surveyor if at any time prior to his registration there exist any facts or circumstances which would have entitled the Board to cancel his registration.

Registration of specialist architect, specialist professional engineer and specialist quantity surveyor.

18. (1) A registered architect, a registered professional engineer or a registered quantity surveyor who —

(a) has sat and passed such examination as may be prescribed by the Board, or holds such postgraduate degrees or qualifications or has gained such special knowledge in a specialised branch of architecture, engineering or quantity surveying as may be approved by the Board;

(b) has such experience in that specialised branch of architecture, engineering or quantity surveying as may be required by the Board; and

(c) has fulfilled such further conditions as may be specified by the Board,

may apply to the Board to be registered as a specialist architect, specialist professional engineer or specialist quantity surveyor.

(2) The Board may, with the approval of the Minister, make regulations for all or any of the following purposes —

(a) providing for the registration of specialists in any specialised branch of architecture, engineering or quantity surveying;

(b) regulating the recording in, removal from, and restoration to the register of specialist architects, specialist professional engineers and specialist quantity surveyors of the names, particulars and qualifications of persons so registered;

(c) providing for appeals by registered architect, registered professional engineers and registered quantity surveyors against any refusal of the Board to register them in the register of specialist architects, register of specialist professional engineers and register of specialist quantity surveyors or to restore their names to those registers or against any decision of the Board to remove their names from those registers;

(d) prescribing the fees payable in respect of —

(i) any application for registration as a specialist architect, specialist professional engineer or specialist quantity surveyors;

(ii) any such registration as a specialist architect, specialist professional engineer or specialist quantity surveyor;

- (iii) any restoration of names to the register of specialist architects, register of specialist professional engineers and register of specialist quantity surveyors; and
- (iv) any appeal.

(3) The Registrar shall, from time to time, prepare and publish in the *Gazette* a list of the names, addresses and qualifications of all specialist architects, specialist professional engineers and specialist quantity surveyors.

Application for registration.

19. Every person registered as an architect, a professional engineer or a quantity surveyor under this Order shall, on payment of the prescribed fee, be entitled to receive a certificate of registration under the hand of the Registrar.

Certificate of registration.

20. (1) The Registrar shall, on payment of the prescribed fee, issue to any applicant whose application has been approved by the Board, a certificate of registration.

(2) Every certificate of registration shall, subject to this Order, expire on the 31st. day of December of the year in which it is issued and shall thereafter be renewable biennially upon payment of the prescribed fee.

Amendment of register of architects, register of professional engineers or register of quantity surveyors.

21. The Registrar shall —

(a) amend the register of architects, the register of professional engineers or the register of quantity surveyors when there is an alteration which may come to his knowledge in the name, address or other relevant particulars of any registered architect, registered professional engineer or registered quantity surveyor; and

(b) correct any error in any entry in the register of architects, the register of professional engineers or the register of quantity surveyors;

(c) remove from the register of architects, the register of professional engineers or the register of quantity surveyors or the register of practitioners, whichever is applicable, the name of any person —

- (i) whose name has been ordered to be removed under any provision of this Order;
- (ii) who has died.

Removal from register.

22. (1) The Board may order the name and other particulars of a registered architect, a registered professional engineer or a registered quantity surveyor to be removed from the register of architects, the register of professional engineers or the register of quantity surveyors if he —

(a) has no address in Brunei Darussalam at which he can be contacted or sent any document using his particulars in the register;

(b) has failed to renew his practising certificate for a continuous period of not less than 10 years.

(2) Notwithstanding the provisions of Part VII, the Board may order the name and other particulars of a registered architect, registered professional engineer or registered quantity surveyor to be removed from the register of architects, the register of professional engineers or the register of quantity surveyors if it comes to the knowledge of the Board that —

(a) he has obtained his registration by fraud or misrepresentation;

(b) his qualification for registration under section 17 has been withdrawn or cancelled by the authority through which it was acquired or by which it was awarded; or

(c) he refuses or has failed to comply with any order made by the Board under sections 47(2)(c) or (e).

(3) The Board shall, before exercising its powers under subsection (2), notify the registered architect, the registered professional engineer or the registered quantity surveyor concerned of its intention to take such action and shall give him an opportunity to submit reasons, within such period as it may determine, why his name should not be removed from the register.

(4) Any person aggrieved by an order made by the Board under subsections (1) or (2) may, within 30 days of being notified of the order, appeal to the Minister, whose decision shall be final.

(5) Any registered architect, registered professional engineer or registered quantity surveyor may apply to the Board to have his name and particulars removed from the register.

(6) Every application under subsection (5) shall be made in such form as the Board may require and the Board may, if it thinks fit, require either or both of the following —

(a) that the application should be supported by a statutory declaration;

(b) that the applicant should advertise his intention to make the application in such manner as the Board shall direct.

(7) Subject to subsection (8), the Board may, upon receiving an application made under subsection (5), direct the Registrar to remove the name and particulars of the applicant from the register.

(8) No order shall be made on an application under subsection (5) if the Board is satisfied that —

(a) disciplinary action is pending against the applicant; or

(b) the conduct of the applicant is the subject of an inquiry by an Investigation Committee.

Reinstatement.

23. (1) Any person or body corporate whose name and particulars have been removed from the register of architects, the register of professional engineers, the register of quantity surveyors, or the register of licensees, as the case may be, shall, if his appeal to the Minister is allowed, be forthwith reinstated without payment of any fee.

(2) The Board may in its discretion, after the expiration of not less than 3 years from the removal from the register of architects, the register of professional engineers or the register of quantity surveyors the name and particulars of any person, consider any application for registration by that person in accordance with the provisions of Part IV.

Appeals.

24. Any person whose application for registration has been refused by the Board may, within 30 days after being notified of such refusal, appeal to the Minister, whose decision shall be final.

PART V

PRACTISING CERTIFICATES

Practising certificates.

25. (1) Where a registered architect, a registered professional engineer or a registered quantity surveyor desires to engage in the practice of architecture, professional engineering or quantity surveying in Brunei Darussalam after 31st. December of any year, he shall, not later than 1st. December of that year and in such form and manner as the Board may determine, apply for a practising certificate authorising him to engage in the practice of architecture, professional engineering or quantity surveying during the ensuing year.

(2) Notwithstanding subsection (1), where a registered architect, a registered professional engineer or a registered quantity surveyor applies for a practising certificate for the first time after registration under section 17, the application may be made at any time during the year and the registered architect, the registered professional engineer or the registered quantity surveyor may be issued a practising certificate for the remainder of the year in which the application is made.

(3) Any application by a registered architect, a registered professional engineer or a registered quantity surveyor under this section shall be accompanied by —

(a) a declaration in writing stating —

(i) his full name;

(ii) the name under which he practises if different from his own name, or the name of the person employing him; and

(iii) the principal and any other address or addresses at which he practises in Brunei Darussalam;

(b) such evidence as the Board may require that the applicant has complied with or is exempt from the rules relating to insurance against professional liability; and

(c) the prescribed fee,

and the Board shall, subject to subsection (4), issue to the registered architect, the registered professional engineer or the registered quantity surveyor, a practising certificate.

(4) The Board may refuse to issue a practising certificate if —

(a) the applicant is an undischarged bankrupt or the applicant has entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors;

(b) the applicant does not intend to practise either on his own account or in partnership, or is not or not about to be employed by any person lawfully supplying architectural, professional engineering or quantity surveying services in Brunei Darussalam;

(c) the declaration under subsection (3) contains a statement that to its knowledge is false in a material particular;

(d) the conduct of the applicant affords reasonable grounds for believing that he will not engage in the practice of architecture, professional engineering or quantity surveying in Brunei Darussalam in accordance with any written law and with honesty and integrity; or

(e) the Board is not satisfied that the applicant has complied with the prescribed requirements relating to continuing professional education.

(5) Any registered architect, registered professional engineer or registered quantity surveyor (not being a registered architect, a registered professional engineer or a registered quantity surveyor who is applying for a practising certificate for the first time) who fails to apply for a practising certificate in the manner and within the period specified in subsection (1) may, on the making of an application in such form and on payment of such additional fee as may be prescribed, be issued a practising certificate for —

(a) the ensuing year if the application is made during the month of December of any year; or

(b) the remainder of the year if the application is made on or after 1st. January of any year.

(6) Subject to subsection (9), a practising certificate shall, unless earlier cancelled, be in force from the date of its issue until 31st. December of the year in respect of which it is issued.

(7) A practising certificate shall specify the name, the principal address and all other addresses of the firm or body corporate under which the registered architect, the registered professional engineer or the registered quantity surveyor is practising or by which he is employed.

(8) Any change in such name or address shall be notified by the registered architect, the registered professional engineer or the registered quantity surveyor concerned to the Registrar within 2 weeks of such change.

(9) Where the name of any registered architect, registered professional engineer or registered quantity surveyor is removed under sections 22 or 47(2)(a), the practising certificate, if any, of that architect, professional engineer or quantity surveyor for the time being in force shall expire forthwith and the Registrar shall enter the date of such expiration on the register of architectural, professional engineering and quantity surveying practitioners and remove from that register the name of that architect, professional engineer or quantity surveyor.

(10) Any person whose application for a practising certificate has been refused by the Board may, within 30 days after being notified of such refusal, appeal to the Minister whose decision shall be final.

Cancellation of practising certificates.

26. (1) The Board may cancel the practising certificate of any registered architect, registered professional engineer or registered quantity surveyor on any ground specified in section 25(4) which applies to the registered architect, the registered professional engineer or the registered quantity surveyor, whether or not such ground existed at the time the practising certificate was issued.

(2) The Board shall not cancel any practising certificate under subsection (1) unless an opportunity of being heard either personally or in writing has been given to the person concerned.

(3) Any person whose practising certificate has been cancelled by the Board under this section may, within 30 days after being notified of such cancellation, appeal to the Minister whose decision shall be final.

PART VI

MULTI-DISCIPLINE AND CORPORATE PRACTICE

Licence for multi-discipline and corporate practice.

27. (1) Subject to the provisions of this Order, the Board may grant to a body corporate a licence to supply architectural, professional engineering or quantity surveying services in Brunei Darussalam if —

(a) the memorandum of association of that body corporate provides that a primary object of that body corporate is to supply architectural, professional engineering or quantity surveying services;

(b) the paid-up capital of the body corporate is not less than the amount prescribed by the Minister by notification in the *Gazette*;

(c) the articles of association of the body corporate provide that at least a prescribed number or proportion of its directors shall be registered architects, registered professional engineers or registered quantity surveyors each of whom have in force a practising certificate;

(d) the business of the body corporate, so far as it relates to the supply of architectural, professional engineering or quantity surveying services, will be under the control and management of a director of the body corporate who —

(i) is a registered architect, a registered professional engineer or a registered quantity surveyor who has in force a practising certificate; and

(ii) is authorised under a resolution of the board of directors of that body corporate to make all final architectural, professional engineering or quantity surveying decisions on its behalf with respect to the requirements of this Order, the rules or any other law relating to the supply of architectural, professional engineering or quantity surveying services by it; and

(e) the body corporate is insured against professional liability in accordance with section 30 and the rules.

(2) Subject to the provisions of this Order, the Board may grant to a partnership not consisting wholly of registered architects a licence to supply architectural services in Brunei Darussalam if —

(a) the partnership is one in which only registered architects and allied professionals, who each has in force a practising certificate, have a beneficial interest in the capital assets and profits of the partnership;

(b) the business of the partnership, so far as it relates to the supply of architectural services in Brunei Darussalam, will be under the control and management of a partner who is a registered architect and has in force a practising certificate.

(3) Subject to the provisions of this Order, the Board may grant to a partnership not consisting wholly of registered professional engineers a licence to supply professional engineering services in Brunei Darussalam if —

(a) the partnership is one in which only registered professional engineers and allied professionals, who each has in force a practising certificate, have a beneficial interest in the capital assets and profits of the partnership;

(b) the business of the partnership, so far as it relates to the supply of professional engineering services in Brunei Darussalam, will be under the control and management of a partner who is a registered professional engineer and has in force a practising certificate.

(4) Subject to the provisions of this Order, the Board may grant to a partnership not consisting wholly of registered quantity surveyors a licence to supply quantity surveying services in Brunei Darussalam if —

(a) the partnership is one in which only registered quantity surveyors and allied professionals, who each has in force a practising certificate, have a beneficial interest in the capital assets and profits of the partnership;

(b) the business of the partnership, so far as it relates to the supply of quantity surveying services in Brunei Darussalam, will be under the control

and management of a partner who is a registered quantity surveyor and has in force a practising certificate.

(5) Subject to the provisions of the Order, the Board may grant a licence to any limited liability partnership to supply architectural services in Brunei Darussalam if –

(a) the statement lodged by the partners of the limited liability partnership with the Registrar of Limited Liability Partnerships under section 16(1) of the Limited Liability Partnerships Order, 2010 (S 117/10) provides that a primary nature of the business of the limited liability partnership is to supply architectural services;

(b) the partners in the limited liability partnership consist only of persons who satisfy such requirements as the Board may determine;

(c) at least one of the partners of the limited liability partnership is a registered architect who has in force a practising certificate;

(d) the business of the limited liability partnership, so far as it relates to architectural services in Brunei Darussalam, will be under the control and management of a partner who –

(i) is a registered architect who has in force a practising certificate;

(ii) is authorised under a resolution of the partners of the limited liability partnership to make all final architectural decisions on behalf of the limited liability partnership with respect to the requirements of this Order, the rules or any other law relating to the supply of architectural services by the limited liability partnership; and

(e) the limited liability partnership is insured against professional liability in accordance with section 30 and the rules.

(6) Subject to the provisions of the Order, the Board may grant a licence to any limited liability partnership to supply professional engineering services in Brunei Darussalam if –

(a) the statement lodged by the partners of the limited liability partnership with the Registrar of Limited Liability Partnerships under section 16(1) of the Limited Liability Partnerships Order, 2010 (S 117/10) provides that a primary nature of the business of the limited liability partnership is to supply professional engineering services;

(b) the partners in the limited liability partnership consist only of persons who satisfy such requirements as the Board may determine;

(c) at least one of the partners of the limited liability partnership is a registered professional engineer who has in force a practising certificate;

(d) the business of the limited liability partnership, so far as it relates to professional engineering services in Brunei Darussalam, will be under the control and management of a partner who —

- (i) is a registered professional engineer who has in force a practising certificate;
- (ii) is authorised under a resolution of the partners of the limited liability partnership to make all final professional engineering decisions on behalf of the limited liability partnership with respect to the requirements of this Order, the rules or any other law relating to the supply of professional engineering services by the limited liability partnership; and

(e) the limited liability partnership is insured against professional liability in accordance with section 30 and the rules.

(7) Subject to the provisions of the Order, the Board may grant a licence to any limited liability partnership to supply quantity surveying in Brunei Darussalam if —

(a) the statement lodged by the partners of the limited liability partnership with the Registrar of Limited Liability Partnerships under section 16(1) of the Limited Liability Partnerships Order, 2010 (S 117/10) provides that a primary nature of the business of the limited liability partnership is to supply quantity surveying services;

(b) the partners in the limited liability partnership consist only of persons who satisfy such requirements as the Board may determine;

(c) at least one of the partners of the limited liability partnership is a registered quantity surveyor who has in force a practising certificate;

(d) the business of the limited liability partnership, so far as it relates to quantity surveying services in Brunei Darussalam, will be under the control and management of a partner who —

- (i) is a registered quantity surveyor who has in force a practising certificate;
- (ii) is authorised under a resolution of the partners of the limited liability partnership to make all final quantity surveying decisions on behalf of the limited liability partnership with respect to the requirements of this Order, the rules or any

other law relating to the supply of quantity surveying services by the limited liability partnership; and

(e) the limited liability partnership is insured against professional liability in accordance with section 30 and the rules.

(8) The Board may refuse to grant a licence under this section to any body corporate, partnership or limited liability partnership if, in the opinion of the Board, the past conduct of any director, manager or employee of the body corporate or any partner, manager or employee of the partnership affords reasonable grounds for believing that the body corporate or partnership will not supply architectural, professional engineering or quantity surveying services in accordance with any written law and with honesty and integrity.

(9) Every licence granted under this section shall, unless earlier revoked, be valid for such period as may be specified therein.

(10) In subsection (1), "prescribed number or proportion of its directors" means —

(a) a majority of the directors, where no number or proportion is specified under paragraph (b); or

(b) where a number or proportion is specified by the Minister for the purposes of subsection (1) by notification in the *Gazette*, such number or proportion of directors as may for the time being be so specified.

Conditions of licence to practise.

28. (1) It shall be a condition of every licence granted to any body corporate, partnership or limited liability partnership that it shall supply architectural, professional engineering or quantity surveying services in Brunei Darussalam by a registered architect, a registered professional engineer or a registered quantity surveyor —

(a) who has in force a practising certificate; and

(b) who is —

(i) in the case of a body corporate, a director or an employee of the corporation;

(ii) in the case of a partnership, a partner or an employee of the partnership; or

(iii) in the case of a limited liability partnership, a partner or an employee of the partnership.

(2) It shall be a condition of every licence granted to any body corporate or to any limited liability partnership, that it shall not supply architectural, professional engineering or quantity surveying services in Brunei Darussalam unless it is insured in respect of professional liability in accordance with section 30 and the rules.

(3) Without prejudice to subsections (1) and (2), the Board may grant a licence subject to such other conditions as the Board thinks fit and may at any time vary any existing conditions (other than those specified in subsections (1) and (2)) of such a licence or impose additional conditions thereto.

(4) Where a licence is granted by the Board to a body corporate, partnership or limited liability partnership subject to conditions (other than those specified in subsections (1) and (2)), the body corporate, partnership or limited liability partnership may, if aggrieved by the decision of the Board, appeal to the Minister, whose decision shall be final.

Change in composition of board of directors, members etc.

29. (1) Any licensed body corporate shall, within 30 days of the occurrence of —

(a) any alteration of its memorandum or articles of association to remove the restrictions, limitations or prohibitions of the kind specified in section 27(1);

(b) any change in the composition of its board of directors, members or shareholders; or

(c) any revocation of any resolution passed by the board of directors under section 27(1)(d)(ii),

furnish the Board a true report in writing giving full particulars of the alteration or change.

(2) Any licensed partnership shall, within 30 days of the occurrence of any change in the composition of its members, furnish the Board a true report in writing giving full particulars of the change.

(3) Any licensed limited liability partnership shall, within 30 days of the occurrence of any change in the composition of its members, furnish the Board a true report in writing giving full particulars of the change.

Liability insurance.

30. Every licensed body corporate and every licensed limited liability partnership shall insure itself against liability for any breach of professional duty

arising out of the conduct of its business of supplying architectural, professional engineering or quantity surveying services as a direct result of any negligent act, error or omission committed by the corporation or its directors, managers, secretaries or employees.

Relationship between client and licensed body corporate.

31. A licensed body corporate or a licensed limited liability partnership shall have the same rights and shall be subject to the same obligations in respect of fiduciary, confidential and ethical relationships with each client of the body corporate or limited liability partnership that exist at law between a registered architect, a registered professional engineer or a registered quantity surveyor and his client.

Professional responsibility of supervising architect, supervising professional engineer or supervising quantity surveyor.

32. A registered architect, a registered professional engineer or a registered quantity surveyor who has the control and management of the business of a licensed body corporate, partnership or limited liability partnership relating to the supply of architectural, professional engineering or quantity surveying services in Brunei Darussalam shall be subject to the same standards of professional conduct and competence in respect of such services as if he was personally supplying the architectural, professional engineering or quantity surveying services.

Revocation of licence.

33. (1) Subject to subsection (3), the Board may by order revoke any licence it has granted to a body corporate, partnership or limited liability partnership if, in the opinion of the Board —

(a) the body corporate, partnership or limited liability partnership has failed to comply with any condition imposed by the Board under section 28;

(b) the memorandum or articles of association of the body corporate have been so altered that they no longer include the restrictions, limitations or prohibitions of the kind specified in section 27(1);

(c) a person who is not —

(i) a registered architect who has in force a practising certificate;

(ii) a registered professional engineer who has in force a practising certificate; or

(iii) a registered quantity surveyor who has in force a practicing certificate,

has a beneficial interest in the capital assets and profits of the partnership;

(d) limited liability partnership no longer satisfies the requirements of sections 27(5), (6) and (7);

(e) the licence had been obtained by fraud or misrepresentation;

(f) the body corporate, partnership or limited liability partnership has ceased to supply architectural, professional engineering or quantity surveying services in Brunei Darussalam;

(g) the body corporate, partnership or limited liability partnership has contravened any provision of the prescribed code of professional conduct and ethics;

(h) the body corporate, partnership or limited liability partnership has contravened sections 29 or 30 or has been convicted of an offence under this Order;

(i) the conduct of any director, manager or employee of the body corporate, or any partner or employee of the partnership or limited liability partnership affords grounds for believing that the body corporate, partnership or limited liability partnership will not supply architectural, professional engineering or quantity surveying services in Brunei Darussalam in accordance with any written law and with honesty and integrity; or

(j) the body corporate, partnership or limited liability partnership has refused or failed to comply with an order of the Board made under subsection (2).

(2) The Board may, in any case in which it considers that no cause of sufficient gravity for revoking a licence exists, by order impose on the body corporate, partnership or limited liability partnership concerned a penalty not exceeding \$20,000, and every such penalty shall be recoverable as a debt due to the Board.

(3) The Board shall not exercise its powers under subsections (1) or (2) unless an opportunity of being heard by a representative in writing or by counsel had been given to the body corporate, partnership or limited liability partnership against which the Board intends to exercise its powers.

(4) Where the Board has revoked a licence under this section, the Registrar shall serve on the body corporate, partnership or limited liability partnership concerned a notice of the order made by the Board.

(5) Any order by the Board revoking a licence or imposing a penalty shall not take effect until the expiration of 30 days after the Board has served that order on the body corporate, partnership or limited liability partnership.

(6) Where an order of revocation becomes effective —

(a) the Registrar shall cause notice of the revocation to be published in the *Gazette* and remove from the register of licensees the name and other particulars of the body corporate, partnership or limited liability partnership concerned; and

(b) the body corporate, partnership or limited liability partnership concerned shall, as from the date of the notice, cease to supply architectural, professional engineering or quantity surveying services in Brunei Darussalam except as may be approved by the Board for the purpose of winding-up its business.

(7) Subsection (6)(b) shall not prejudice the enforcement by any person of any right or claim against the body corporate, partnership or limited liability partnership by the body corporate, partnership or limited liability partnership of any right or claim against any person.

Appeal against order of Board.

34. (1) If the Board has made —

(a) an order revoking a licence under section 33(1) against a body corporate, partnership or limited liability partnership; or

(b) an order imposing a penalty on a licensed body corporate, partnership or limited liability partnership under section 33(2),

the body corporate, partnership or limited liability partnership concerned may, within 30 days after being served with the order, appeal against the order to the Minister, whose decision shall be final.

(2) Where the body corporate, partnership or limited liability partnership concerned has appealed against an order to the Minister under section 34, the order shall not take effect unless the order is confirmed by the Minister or the appeal is dismissed by the Minister or withdrawn.

(3) Any body corporate, partnership or limited liability partnership whose name has been removed from the register of licensees under section 33(6)(a) shall, if its appeal to the Minister is allowed, be forthwith reinstated without payment of any fee.

PART VII

DISCIPLINARY PROCEEDINGS

Appointment of Investigation Panel.

35. (1) For the purpose of enabling Investigation Committees to be appointed under section 38, the Board shall appoint an Investigation Panel consisting of —

(a) in the case of a complaint against a registered architect —

- (i) not less than 7 registered architects of at least 10 years' standing who are not members of the Board; and
- (ii) not less than 5 allied professionals or laymen;

(b) in the case of a complaint against a registered professional engineer —

- (i) not less than 7 registered professional engineers of at least 10 years' standing who are not members of the Board; and
- (ii) not less than 5 allied professionals or laymen;

(c) in the case of a complaint against a registered quantity surveyor —

- (i) not less than 5 registered quantity surveyors of at least 10 years' standing who are not members of the Board; and
- (ii) not less than 3 allied professionals or laymen.

(2) A member of the Investigation Panel shall be appointed for a term of 2 years and shall be eligible for re-appointment.

(3) The Board may, at any time, revoke the appointment of any member of the Investigation Panel or fill any vacancy in its membership.

Complaints against registered architects, registered professional engineers or registered quantity surveyors.

36. Any complaint concerning —

(a) the conviction of a registered architect, a registered professional engineer or a registered quantity surveyor of any offence involving fraud, dishonesty or moral turpitude, or implying a defect in character which makes him unfit for his profession;

(b) any improper act or conduct of a registered architect, a registered professional engineer or a registered quantity surveyor in his professional capacity which brings disrepute to his profession;

(c) any contravention by a registered architect, a registered professional engineer or a registered quantity surveyor of any provision of the prescribed code of professional conduct and ethics;

(d) the ability of a registered architect, a registered professional engineer or a registered quantity surveyor to carry out the duties of an architect, a professional engineer or a quantity surveyor effectively in Brunei Darussalam; or

(e) any failure on the part of a registered architect, a registered professional engineer or a registered quantity surveyor while being a director, a manager or an employee of a licensed body corporate, or a partner, a manager or an employee of a licensed partnership, to take reasonable steps to prevent that body corporate or partnership from acting in a manner (other than as described in section 33(1)(d)) which would warrant the Board revoking any licence granted to the body corporate or partnership or imposing a penalty under section 33(2),

shall be made to the Board in writing and shall be supported by such statutory declaration as the Board may require, except that no statutory declaration shall be required if the complaint is made or given by any public officer or officer of the Board.

Review of complaints.

37. (1) Subject to subsection (3), the Board shall, upon receiving any complaint under section 36, refer the complaint to the Registrar for review.

(2) The Board may also, on its own motion, refer any information concerning any improper or dishonourable act or conduct of a registered architect, a registered professional engineer or a registered quantity surveyor to the Registrar for review.

(3) The Board need not refer any complaint or information to the Registrar for review where the complaint or information relates to any of the matters set out in section 22(2) and, in such a case, the Board may take such action as it thinks fit under that section.

(4) The Registrar —

(a) shall review the complaint or information referred to him for the purpose of determining if there are sufficient merits to warrant the institution of disciplinary proceedings under this Part against the registered architect, the registered professional engineer or the registered quantity surveyor concerned; and

(b) may, for the purpose of conducting such review, enlist the assistance of any registered architect, registered professional engineer or registered quantity surveyor or layman on the Investigation Panel.

(5) In conducting a review under this section, the Registrar may require the complainant (if any) or the registered architect, the registered professional engineer or the registered quantity surveyor concerned to answer any question or to furnish any document or information that he considers relevant for the purpose of the review.

(6) On the completion of a review under this section, the Registrar shall —

(a) recommend to the Board that the complaint or information be dismissed, if he finds that the complaint is frivolous, vexatious, misconceived or without merits, or that the information is unsubstantiated;

(b) in a case where the complaint or information relates to the conviction (whether in Brunei Darussalam or elsewhere) of the registered architect, the registered professional engineer or the registered quantity surveyor of an offence that —

(i) involves fraud or dishonesty; or

(ii) implies a defect in character which makes the registered architect, the registered professional engineer or the registered quantity surveyor unfit for his profession,

recommend to the Board to refer the matter to a Disciplinary Committee for a formal inquiry; and

(c) in any other case, recommend to the Board that the matter be referred to an Investigation Committee for an inquiry.

(7) The Board may, upon accepting the recommendation of the Registrar under subsection (6), appoint an Investigation Committee or a Disciplinary Committee, as appropriate, and refer the matter thereto for an inquiry or a formal inquiry.

Appointment of Investigation Committees.

38. (1) The Board may appoint one or more Investigation Committees comprising —

(a) in the case of complaint against a registered architect —

(i) a chairman who is both a member of the Board and a registered architect;

- (ii) 2 members of the Investigation Panel who are registered architects; and
 - (iii) a member of the Investigation Panel who is an allied professional or a layman;
- (b) in the case of complaint against a registered professional engineer —
- (i) a chairman who is both a member of the Board and a registered professional engineer;
 - (ii) 2 members of the Investigation Panel who are registered professional engineers; and
 - (iii) a member of the Investigation Panel who is an allied professional or a layman;
- (c) in the case of complaint against a registered quantity surveyor —
- (i) a chairman who is both a member of the Board and a registered quantity surveyor;
 - (ii) 2 members of the Investigation Panel who are registered quantity surveyors; and
 - (iii) a member of the Investigation Panel who is an allied professional or a layman;

to inquire into any complaint or information received by the Board under section 36.

(2) A member of the Investigation Panel who has assisted the Registrar in reviewing any complaint or information under section 37(4)(b) shall not be a member of an Investigation Committee inquiring into the same matter.

(3) An Investigation Committee may be appointed in connection with one or more matters or for a fixed period, as the Board thinks fit.

(4) The Board may, at any time, revoke the appointment of the chairman or any member of an Investigation Committee or fill any vacancy in an Investigation Committee.

(5) No act done by or under the authority of an Investigation Committee shall be invalid in consequence of any defect that is subsequently discovered in the appointment or qualification of the chairman or members or any of them.

(6) The chairman of an Investigation Committee shall, notwithstanding that he has ceased to be a member of the Board on the expiry of his term of office, continue to be the chairman of the Investigation Committee until the Investigation Committee has completed its work.

(7) A member of an Investigation Committee shall, notwithstanding that he has ceased to be a member of the Investigation Panel on the expiry of his term of office, continue to be a member of that Investigation Committee until such time as the Investigation Committee has completed its work.

Powers and procedure of Investigation Committee.

39. (1) For the purposes of any inquiry, an Investigation Committee may require any person –

(a) to attend at a specified time and place and give evidence before the Investigation Committee; and

(b) to produce all books, documents and papers in his custody or under his control which may be related to or be connected with the subject-matter of the inquiry.

(2) Any person who, without lawful excuse –

(a) refuses or fails to comply with any requirement of the Investigation Committee under subsection (1); or

(b) refuses to answer or gives a false answer to any question put to him by a member of the Investigation Committee,

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 6 months or both.

(3) Subject to the rules, an Investigation Committee shall have the power to regulate its own procedure for an inquiry.

(4) An Investigation Committee shall complete its inquiry not later than 3 months from the date on which the matter to be inquired into is referred to it, unless the Board, on application of the Investigation Committee, allows otherwise.

Findings of Investigation Committee.

40. Upon due inquiry into any complaint or information, an Investigation Committee shall report its findings to the Board and recommend to the Board to do any of the following –

(a) order that the complaint or information be dismissed;

(b) order that the registered architect, the registered professional engineer or the registered quantity surveyor be issued with a letter of advice or a letter of warning;

(c) order that a formal inquiry be held by a Disciplinary Committee;

(d) make such other order as the Board thinks fit.

Decision of Board.

41. (1) Upon receiving the findings and recommendation of an Investigation Committee, the Board may —

(a) accept the recommendation and make the recommended order;

(b) refer the matter back to the Investigation Committee for further inquiry; or

(c) make such other order as the Board thinks fit.

(2) The Board shall not —

(a) issue any letter of advice or letter of warning to a registered architect, a registered professional engineer or a registered quantity surveyor in accordance with the recommendation of the Investigation Committee under section 40(b); or

(b) make any other order against the registered architect, the registered professional engineer or the registered quantity surveyor in accordance with the recommendation of the Investigation Committee under section 40(d),

unless the Board is satisfied that the Investigation Committee had allowed the registered architect, the registered professional engineer or the registered quantity surveyor concerned an opportunity of being heard either personally or by counsel during the inquiry.

(3) The Board shall notify the person who made the complaint or gave the information of its decision.

(4) A registered architect, a registered professional engineer or a registered quantity surveyor who is aggrieved by any advice or order of the Board, being an advice or order referred to in sections 40(b) or (d), may, within 30 days of being notified of the determination of the Board, appeal to the Minister, whose decision shall be final.

(5) Where the person who made the complaint or gave the information to the Board is dissatisfied with the decision of the Board under sections 40(a), (b) or

(d), he may, within 30 days of being notified of the determination of the Board, appeal to the Minister, whose decision shall be final.

(6) The Minister may, in relation to an appeal under subsections (4) or (5), make —

(a) an order affirming the decision of the Board;

(b) an order directing a formal inquiry to be held by a Disciplinary Committee; or

(c) such other order as he thinks fit.

Appointment of Disciplinary Committees.

42. (1) The Board may appoint one or more Disciplinary Committees to formally inquire into —

(a) any complaint or information in respect of which the Minister has, under section 41(6)*(b)*, made an order that a formal inquiry be held by a Disciplinary Committee; or

(b) any matter recommended to the Board under section 37(6)*(b)*.

(2) A Disciplinary Committee shall comprise —

(a) in the case of complaint against a registered architect, 3 registered architects of at least 10 years' standing, of whom at least 2 shall be members of the Board;

(b) in the case of complaint against a registered professional engineer, 3 registered professional engineers of at least 10 years' standing, of whom at least 2 shall be members of the Board;

(c) in the case of complaint against a registered quantity surveyor, 3 registered quantity surveyors of at least 10 years' standing, of whom at least 2 shall be members of the Board.

(3) A Disciplinary Committee may be appointed in connection with one or more matters or for a fixed period, as the Board thinks fit.

(4) The chairman or a member of an Investigation Committee which inquired into any complaint or information shall not be a member of a Disciplinary Committee inquiring into the same matter.

(5) The Board shall appoint a member of a Disciplinary Committee to be the chairman of that Disciplinary Committee.

(6) The Board may, at any time, revoke the appointment of any Disciplinary Committee or any member thereof or fill any vacancy in a Disciplinary Committee.

(7) No act done by or under the authority of a Disciplinary Committee shall be invalid in consequence of any defect that is subsequently discovered in the appointment or qualification of the members or any of them.

(8) A member of a Disciplinary Committee shall, notwithstanding that he has ceased to be a member of the Board on the expiry of his term of office, continue to be a member of that Disciplinary Committee until the Disciplinary Committee has completed its work.

Observer.

43. (1) The Board shall appoint a member of the Investigation Panel who is an allied professional or a layman as an observer of the proceedings of a Disciplinary Committee, except that the person appointed must not have assisted the Registrar in reviewing any complaint or information under section 37(4)(b) or must not have been a member of the Investigation Committee which had inquired into the same matter.

(2) The observer shall not vote on any question or matter to be decided by the Disciplinary Committee and need not be present at every meeting of the Disciplinary Committee.

Architect, professional engineer or quantity surveyor to be notified of inquiry.

44. (1) Before a Disciplinary Committee commences its formal inquiry into any complaint or information referred to it, the Registrar shall serve on the registered architect, the registered professional engineer or the registered quantity surveyor concerned a notice of the formal inquiry.

(2) An inquiry shall not be fixed on a date earlier than 21 days after the date of the notice of inquiry except with the agreement of the registered architect, the registered professional engineer or the registered quantity surveyor.

(3) On application to the Disciplinary Committee, the registered architect, the registered professional engineer or the registered quantity surveyor may request postponement of the formal inquiry, and the Disciplinary Committee may, in its discretion, grant the application and postpone the formal inquiry to such date as it may determine.

Powers and procedure of Disciplinary Committee.

45. (1) For the purposes of a formal inquiry, a Disciplinary Committee may require any person —

(a) to attend at a specified time and place and give evidence before the Disciplinary Committee; and

(b) to produce all books, documents and papers in his custody under his control which may be related to or be connected with the subject-matter of the formal inquiry.

(2) Any person who, without lawful excuse —

(a) refuses or fails to comply with any requirement of the Disciplinary Committee under subsection (1); or

(b) refuses to answer or gives a false answer to any question put to him by a member of the Disciplinary Committee,

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 6 months or both.

(3) The Disciplinary Committee —

(a) shall not be bound to act in any formal manner and shall not be bound by the provisions of the Evidence Act (Chapter 108) or of any other written law relating to evidence, but may inform itself on any matter in such manner as it thinks fit;

(b) may administer an oath to any person giving evidence before it; and

(c) may, subject to the rules, regulate its own procedure for a formal inquiry.

(4) Any party to the proceedings before a Disciplinary Committee may apply for the issue of subpoenas to testify or to produce documents, and such subpoenas shall be served and may be enforced as if they were subpoenas issued in connection with a civil action in the High Court.

(5) Any person giving evidence before a Disciplinary Committee shall be legally bound to tell the truth.

(6) Any person giving evidence in a formal inquiry shall have the same privileges and immunities in relation to that inquiry as if it was a proceeding in a court of law.

(7) The Board may appoint an advocate and solicitor for a formal inquiry (whether to prosecute the complaint or to act as a legal adviser to the Disciplinary Committee) and shall pay to the advocate and solicitor, as part of the expenses of the Board, such remuneration as it may determine.

(8) A Disciplinary Committee shall complete its inquiry not later than 6 months from the date of its appointment, unless the Board, on application of the Disciplinary Committee, allows otherwise.

(9) In sections 172 to 175, 177, 179, 182 and 228 of the Penal Code (Chapter 22), "public servant" shall be deemed to include a member of a Disciplinary Committee holding a formal inquiry, and in sections 193 and 228 of the Penal Code, "judicial proceeding" shall be deemed to include such a formal inquiry.

Findings of Disciplinary Committee.

46. Where, upon due inquiry into a complaint or matter, a Disciplinary Committee is satisfied that the registered architect, the registered professional engineer or the registered quantity surveyor concerned —

(a) has been convicted of any offence involving fraud, dishonesty or moral turpitude, or such defect in character which makes him unfit for his profession;

(b) has been guilty of such improper act or conduct which, in the opinion of the Disciplinary Committee, brings disrepute to his profession;

(c) has contravened any provision of the prescribed code of professional conduct and ethics;

(d) is no longer in a position to carry out the duties of a registered architect, a registered professional engineer or a registered quantity surveyor effectively in Brunei Darussalam; or

(e) while being a director, a manager or an employee of a licensed body corporate, or a partner, a manager or an employee of a licensed partnership, had failed to take reasonable steps to prevent that body corporate, partnership or limited liability partnership from acting in a manner (other than as described in section 33(1)(e)) which would warrant the Board revoking any licence granted to the body corporate, partnership or limited liability partnership or imposing a penalty under section 33(2),

the Disciplinary Committee shall report its findings and make recommendations to the Board.

Decision of Board.

47. (1) Upon receiving the findings and recommendations under section 46, the Board may confirm the recommendations and exercise one or more of the powers referred to in subsection (2).

(2) The powers that the Board may exercise for the purposes of subsection (1) are as follows —

(a) by order to direct the Registrar to remove the name of the registered architect, the registered professional engineer or the registered quantity surveyor from the register of architects, the register of professional engineers or the register of quantity surveyors;

(b) by order to suspend the registered architect, the registered professional engineer or the registered quantity surveyor from practice for a period of not more than 2 years;

(c) by order to impose on the registered architect, the registered professional engineer or the registered quantity surveyor a penalty not exceeding \$10,000;

(d) in writing to censure the registered architect, the registered professional engineer or the registered quantity surveyor; or

(e) make such other order as the Board thinks fit.

(3) In addition to its powers under subsection (2), the Board may order the registered architect, the registered professional engineer or the registered quantity surveyor concerned to pay to the Board such sum, not exceeding \$10,000, as the Board thinks fit in respect of the costs and expenses of and incidental to any proceedings against him under this Part.

(4) Where the Board finds that the registered architect, the registered professional engineer or the registered quantity surveyor has not been convicted or guilty of any of the matters referred to in sections 46(a) to (e), it shall order that the complaint or information be dismissed.

(5) The costs and expenses referred to in subsection (3) shall include —

(a) the costs and expenses of any advocate and solicitor appointed by the Board for proceedings before the Disciplinary Committee;

(b) such reasonable expenses as the Board may pay to witnesses; and

(c) such reasonable expenses as are necessary for the conduct of proceedings before the Disciplinary Committee.

(6) The Registrar shall serve on the registered architect, the registered professional engineer or the registered quantity surveyor concerned a notice of the order made by the Board.

(7) Subject to subsection (8), an order referred to in subsection (2) shall not take effect until the expiration of 30 days after it is made.

(8) On making an order referred to in subsections (2)(a) or (b), the Board, if satisfied that to remove the name of the registered architect, the registered professional engineer or the registered quantity surveyor concerned from the register of architects, the register of professional engineers or the register of quantity surveyors or to suspend him from practice, is necessary for the protection of members of the public or would be in the best interests of the registered architect, the registered professional engineer or the registered quantity surveyor, may order that the Registrar immediately remove his name from the register or suspend him from practice.

(9) An order under subsection (8) shall take effect from the time the order is made.

(10) While any order of suspension from practice made under subsection (2)(b) remains in force, the person to whom it applies shall not, for the purposes of this Order, be regarded as having in force a practising certificate but immediately on its expiry or annulment, his privileges under this Order shall be revived as from the date of expiry or annulment.

(11) For the purposes of section 46(e), a registered architect, a registered professional engineer or a registered quantity surveyor shall not be deemed to have taken reasonable steps to prevent the doing of any act by a licensed body corporate, partnership or limited liability partnership unless he satisfies the Board that —

(a) the act was done without his knowledge;

(b) he was not in a position to influence the conduct of the body corporate, partnership or limited liability partnership in relation to its action;
or

(c) he, being in such a position, exercised all due diligence to prevent the body corporate, partnership or limited liability partnership from so acting.

(12) In this section, references to acts done by a licensed body corporate, partnership or limited liability partnership include references to omissions to act and to a series of acts or omissions to act.

(13) Every penalty imposed under an order by a Board under subsection (2) [or ordered to be paid under subsection (3)] shall be recoverable as a debt due to the Board.

Appeal against order of Board.

48. Any person aggrieved by a decision of the Board referred to in sections 47(2), (3) or (4) may, within 30 days after the service on him of the notice of the order, appeal to the Minister against the order whose decision shall be final.

Conviction final and conclusive.

49. In any proceedings under this Part in relation to the conviction of a registered architect, a registered professional engineer or a registered quantity surveyor for a criminal offence, the Minister, the Board, an Investigation Committee and a Disciplinary Committee, on appeal from any order of the Board, shall accept his conviction as final and conclusive.

Service of documents.

50. Any notice, order or document required or authorised to be served under this Part shall be deemed to be sufficiently served —

(a) by delivering a copy thereof personally or by leaving it with some adult person at the last known place of residence or business of the person on whom it is to be served; or

(b) by sending it by registered post addressed to the person on whom it is to be served at his address as stated in the appropriate register.

PART VIII

GENERAL

Penalty for wilful falsification of register and wrongfully procuring registration etc.

51. Any person who —

(a) wilfully makes or causes to be made any false entry in or any falsification of any register kept and maintained under this Order;

(b) wilfully procures or attempts to procure —

(i) for any body corporate, partnership or limited liability partnership a licence; or

- (ii) for himself or any other person a practising certificate or to be registered as an architect, a professional engineer or a quantity surveyor under this Order,

by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either verbally or in writing, or by intentionally suppressing any material fact and furnishing information which is misleading; or

- (c) knowingly aids or assists in any of the acts mentioned in paragraphs (a) or (b),

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 6 months or both.

Offences by bodies corporate etc.

52. (1) Where an offence under this Order which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or of any person who was purporting to act in such capacity, he, as well as the body corporate, is guilty of that offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of that body corporate.

Exemptions.

53. The Minister may, after consultation with the Board, by order published in the *Gazette* and subject to such conditions as he thinks fit exempt any person or class of person from all or any of the provisions of this Order.

No action in absence of bad faith or malice.

54. No action or proceeding shall lie against the Board, any committee or division appointed by the Board or any member thereof for any act or thing done in good faith in the discharge of its or his duties under this Order.

Rules.

55. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make rules which are necessary or expedient for giving effect to and carrying out the provisions of this Order, including the prescription of fees and of any other thing required to be or which may be prescribed under this Order and for the due administration, thereof.

(2) Without prejudice to the generality of subsection (1), the Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make rules —

(a) prescribing forms of applications under this Order and certificates of registration, practising certificates and licences;

(b) prescribing the subject-matter of examinations to be conducted by or under the direction of the Board in the case of applicants or class of applicants for registration;

(c) prescribing the form in which the register of architects, the register of professional engineers, the register of quantity surveyors, the register of practitioners and the register of licensees are to be kept and the particulars to be entered therein;

(d) prescribing a code of professional conduct and ethics;

(e) requiring all or any of the following to take out and maintain insurance against liability for breach of professional duty in the course of supplying architectural, professional engineering or quantity surveying services —

- (i) any partnership consisting wholly of registered architects;
- (ii) any partnership consisting wholly of registered professional engineers;
- (iii) any partnership consisting wholly of registered quantity surveyors;
- (iv) any partnership applying for a licence;
- (v) any limited liability partnership applying for a licence;
- (vi) any registered architect applying for a practising certificate for the purpose of engaging in the practice of architecture on his own account;
- (vii) any registered professional engineer applying for a practising certificate for the purpose of engaging in the practice of professional engineering on his own account;
- (viii) any registered quantity surveyor applying for a practising certificate for the purpose of engaging in the practice of quantity surveying on his own account;

- (ix) any registered architect, registered professional engineer or quantity surveyor applying for a practising certificate who is employed or about to be employed by any person referred to in sub-paragraphs (i) to (vii);
- (x) any other registered architect, registered professional engineer or registered quantity surveyor applying for a practising certificate;

f) prescribing the terms and conditions of insurance against professional liability under this Order or rules, including a minimum limit of indemnity.

Made this 21st. day of Rabiulawal, 1432 Hijriah corresponding to the 26th. day of March, 2011 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM