

**PROFESSIONAL
ARCHITECTS
COUNCIL
OF
MAURITIUS**

**THE PROFESSIONAL ARCHITECTS COUNCIL ACT, 1988
THE PROFESSIONAL ARCHITECTS COUNCIL RULES, 1990**

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THE PROFESSIONAL ARCHITECTS COUNCIL RULES, 1990

In exercise of its powers under section 12(1) of the Professional Architects Council Act, 1988, the Council hereby makes the following rules:

Part 1 PRELIMINARY

1.1 Citation

1.1.1 These rules may be cited as the Professional Architects Council Rules, 1990.

1.2 Definition

1.2.1 Unless the context otherwise requires in the Rules, "Act" shall mean the Professional Architects Council Act, 1988, "Chairman" shall mean the Chairman of the Council and the words defined in Section 2 of the Act shall have the same meaning in these Rules.

Part 2 ADMINISTRATION

2.1 Meetings of Council

2.1.1 The Registrar shall convene a meeting of the Council whenever requested to do so by the Chairman or in writing not less than four members of the Council.

2.2 Notice of Meetings and Attendance

2.2.1 Not less than fourteen days notice in writing shall be given specifying the place, date and time of a meeting and the business to be conducted at the meeting.

2.2.2 If a member does not attend three consecutive meetings without leave the Chairman with the approval of the other members of the Council may write to the Minister of Works to request that the member in question be replaced.

2.3 Votes

2.3.1 Voting shall be by a show of hands. In the event that there are an equal number of members present and the votes are equally divided the Chairman shall have a casting vote. A declaration by the Chairman or the member presiding that a resolution has been carried by a particular majority or not carried by a particular majority shall be conclusive and an entry to that effect in the minutes of the meeting shall be conclusive evidence thereof without proof of the number or proportion of votes recorded for or against the resolution.

2.3.2 Votes shall only be given by members present and voting. Proxies will not be admitted.

2.4 Minutes

2.4.1 Minutes of each meeting shall be kept by the Registrar.

2.4.2 Minutes of each meeting must be approved by the Council at the following meeting.

2.5 Committees

2.5.1 The Council may from time to time by resolution appoint committees from amongst its members and the Council may by resolution at any time dissolve any committee so appointed.

2.5.2 A committee appointed under paragraph 2.5.1 may invite any person to attend its meetings and to take part in its deliberations but such person shall have no vote.

2.5.3 The Chairman shall be an ex-officio member of all committees.

2.6 Registrar

2.6.1 The Registrar shall consult the Chairman on any business, other than that of a routine nature, requiring attention at any time between meetings of the Council.

2.7 Auditor and Bank accounts

2.7.1 The Council shall appoint an auditor to audit the accounts of the Council as prepared by the Registrar.

2.7.2 The auditor's report shall be submitted not later than 30th June of each year in respect of the financial year ending on the 30th March of that year.

2.7.3 All payments received shall be deposited to the credit of the account of the Council with a bank or banks approved by the Council.

2.7.4 All cheques drawn on the bank account of the Council shall be signed jointly.

(a) by the Chairman and the Registrar; or

(b) in the absence of the Chairman, by the Registrar and a member appointed by the Council to sign cheques in place of the Chairman; or

(c) in the absence of the Registrar, by the Chairman and a member appointed by the Council to sign cheques in place of the Registrar.

2.8 Accounts

2.8.1 The Council shall cause to be kept and maintained proper accounts and records relating to :

(a) the assets and liabilities of the Council;

(b) the sums of money received and expended by or under the authority of the Council

2.9 Financial year

2.9.1 The Financial year of the Council shall end on the 30th day of March.

Part 3 REGISTRATION

3.1 Application for Registration

- 3.1.1 Every person desirous of being registered as a Professional Architect under the Act shall make an application to that effect to the Council. The application shall be made on Form A set out in the schedule of these Rules and submitted to the Registrar.
- 3.1.2 Every person desirous of being registered as a Licensed Architect under the Act shall make an application to that effect to the Council. The application shall be made on Form B set out in the schedule of these Rules and submitted to the Registrar.

3.2 Submission of application to the Council and decision thereon

- 3.2.1 On receipt of an application for registration under rule 3.1 the Registrar shall satisfy himself that the application is regular and has been submitted with the necessary supporting documentation.
- 3.2.2 If the Registrar is not satisfied that the application is regular or has been submitted with the necessary supporting documents, he shall return the application to the applicant with a statement of the defects in the application and a request that the application be re-submitted, or require the applicant to submit such particulars or documents as the Council considers necessary.
- 3.2.3 Within thirty days of the receipt of an application that, to the Registrar's satisfaction, is regular and has been submitted with the necessary supporting documents, or of such particulars or documents as render an application regular, the Registrar shall submit the application to the Council for consideration.
- 3.2.4 The Council shall consider each application, at a Council meeting, within thirty days of the submission of the application to the Council by the Registrar.
- 3.2.5 The decision to approve or not to approve an application shall be taken by a simple majority of the Council members present at the meeting.

3.3 Decision of the Council

- 3.3.1 Every applicant shall be notified of the decision of the Council by the Registrar within thirty days of the date of the decision.
- 3.3.2 The notification under Rule 3.3.1 must state the date of the decision.

3.4 Registration and Roll Fee

- 3.4.1 Any person whose application for registration as a Professional Architect or Licensed Architect has been approved shall, within thirty days of the date of notification under Rule 3.3.1, pay such a roll fee as the Council shall from time to time decide.

3.5 Certificate of Registration

- 3.5.1 Upon the approval of the application and upon payment of the fee a certificate of registration will be issued by the Council to a registered Professional Architect or a registered Licensed Architect.
- 3.5.2 All certificates of registration issued under the Act and these Rules shall be signed by the Registrar and the Chairman and sealed with the common seal of the Council.
- 3.5.3 All certificates of registration shall remain the property of the Council and must be returned to the Council when a person's name is removed from the register.

3.6 Annual Roll Fee

- 3.6.1 An annual roll fee is due for payment as from the 1st January of each year.
- 3.6.2 Any Professional or Licensed Architect who fails to pay the annual roll fee by the 30th June of each year shall be liable to a surcharge of 50% of the roll fee.
- 3.6.3 Where a Professional or Licensed Architect fails to pay the annual roll fee plus the surcharge by the 30th September of the year in which it is due, the name of that Architect shall be removed from the register, and the Council may restore the name of the Architect on the register upon good cause shown and payment of the appropriate fee and surcharge.

Part 4 CODE OF PROFESSIONAL CONDUCT

4.1 Interpretation

- 4.1.1 Throughout this code the term "architect" shall mean either a "Professional Architect" or a "Licensed Architect".

4.2 Principle 1

- 4.2.1 An architect must at all times, faithfully carry out the duties which he undertakes and have due regard to the interest of his Clients who commission him, and shall act with loyalty towards his professional colleagues.
- 4.2.2 An architect, on being approached or instructed to proceed with any professional work upon which it is obvious, or of which it can be ascertained by reasonable inquiry, that another architect has been employed by the same client, shall communicate in writing the fact to such architect.
- 4.2.3 An architect shall act impartially in all cases of dispute, which may arise between the parties. Where he had responsibilities as Architect under a building contract, he shall interpret the conditions of a building contract with fairness as between his Client or employer and the Contractor.

4.2.4 An architect shall not permit the insertion of any clause in tenders, bills of quantities or other contract documents which provides for payments to be made to him by the Contractor whatever may be the consideration, unless with the full knowledge of his Client and his written consent.

4.2.5 An architect shall not accept any work which involves the giving to or receiving from him of discounts or commissions, nor shall he accept any discount, gift or commission from Contractors or tradesmen, whether employed upon his works or not.

4.3 Principle 2

4.3.1 An architect shall avoid actions and situations inconsistent with his professional obligations or likely to raise doubts about his integrity as an architect.

4.3.2 An architect shall not assume or knowingly accept a position in which his interest is in conflict with his professional duty.

An architect shall not share or agree to share fees nor shall he enter into partnership with regard to architectural work with any person other than another architect.

4.3.3 An architect shall not, while practising his profession, carry on or engage in any operation of trade or business which is out of keeping with the fitting and proper discharge of his professional duties.

4.3.4 An architect having any business dealings in any building material, device or invention proposed to be used in the work for which he is the architect shall inform his Client of such ownership or interest.

4.3.5 An architect shall not sign or put his signature to drawings, plans or specifications not prepared by him or, by his staff under his supervision.

4.3.6 An architect while practicing his profession, may also be a property developer or a director or a shareholder of a property development company, a contractor or a director or shareholder of a building construction company, provided that:

(a) he declares his interest to his Client and potential clients in writing at the time of his appointment as an architect.

(b) he avoids being in a position of conflict in discharging his professional duties.

(c) he complies with the code whilst serving as an Architect, and

(d) he uses his name in the letter-heads, sales brochures, catalogues and similar documents of his firm or company in connection with his professional services.

4.4 Principle 3

4.4.1 An architect shall reply only on ability and achievement as the basis for his advancement in practice.

- 4.4.2 The professional services of an architect in private practice shall be remunerated solely by fees payable by his Client. The services of an architect in employment may be paid by salary agreed with his employer.
- 4.4.3 An architect shall not accept payment or other consideration from any source other than his Client or employer in connection with the works and duties entrusted to him nor shall he permit any member of his staff to receive such payment or consideration.
- 4.4.4 An architect shall not offer professional services by means of advertising in the press or trade directories nor by the issuance of circulars canvassing for works.
- 4.4.5 An architect shall not give or offer remuneration or other inducements for the introduction of Clients or of work.
- 4.4.6 Notwithstanding Rule 4.4.4 above , an architect may make paid announcements in the mass media when:
- (a) advertising a professional appointment available in his practice
 - (b) announcing a change of address.
- 4.4.7 An architect may allow signed illustration and descriptions of his work to be published in the mass media, but he shall not give monetary consideration for such publication.
- 4.4.8 An architect may consent to the publication of a series of illustrations either in circular, brochure or book form, with or without descriptive letter-press of any building or buildings for which he has been responsible provided that there is no attempt to distribute the publication to potential clients.
- 4.4.9 An architect may sign buildings for which he has been commissioned and any exhibit his name outside his office, and on buildings in the course of construction, alteration or extension, provided that this lettering does not exceed 100 mm in height.
- 4.4.10 An architect shall not attempt to supplement or compete with another architect by means of a reduction of fees or by any other inducement.

Part 5 JOINT VENTURE

5.1 Introduction

- 5.1.1 No Architect shall enter into a joint venture with a foreign Architect unless the joint venture has first been approved by the Council.
- 5.1.2 A separate joint venture application shall be made in respect of each joint venture project and distinct application must be made for any subsequent projects.
- 5.1.3 In the event of the death of either party to the joint venture or the removal from the roll of either architect by the Architects Registration Council of Mauritius or the registration council of any other country, the joint venture will lapse and shall not be valid thereafter.

5.2 Application

- 5.2.1 Parties desirous of having a joint venture agreement approved by the Council shall make application to the Registrar on Form C set out in the schedule to these rules. This form should be accompanied by a draft copy of the joint venture agreement.
- 5.2.2 All joint venture agreements must be approved by the Council at draft stage prior to any formal and binding agreement being made.
- 5.2.3 Joint venture applications will be in respect of one project and a similar application must be made for any subsequent projects.
- 5.2.4 The minimum percentage of local participation will be 51% of the total fee for architectural services as agreed between the joint venture parties and their client.

5.3 Eligibility of foreign architects

- 5.3.1 A Registered Professional Architect or a Registered Licensed Architect shall not enter into a joint venture with any person unless that person;
 - (a) satisfies the Council that:
 - (i) he has attained the age of 21;
 - (ii) he is of good repute and character;
 - (b) holds a qualification in architecture from a school, university or other institution:
 - (i) recognised by the Commonwealth Association of Architects (CAA);
 - (ii) of a member country of the European Economic Community recognised by the member country, or
 - (iii) which the Minister may, after consultation with the Council, approve
 - (c) satisfies the Council that he has at least one year experience in the practice of architecture.
- 5.3.2 In the event that the other party to a joint venture with a Registered Professional Architect or a Registered Licensed Architect is an architectural partnership then the partner who will be responsible for the project must be identified and his credentials submitted as required by the Council and that person shall satisfy the requirements set out in Rule 5.3.1.
- 5.3.3 Any foreign architect who intends to reside in Mauritius for the duration of a project which is the subject of a joint venture agreement must abide by the laws of Mauritius, particularly with regard to residence and work permits. The approval by the Council to a joint venture agreement does not pre-empt other necessary permissions.
- 5.3.4 Any foreign architect entering into a joint venture must abide by the Code of Conduct of the Council.

5.4 Submission of application to the Council and decision thereon

- 5.4.1 On receipt of an application for the approval of a joint venture under rule 5.2.2 the Registrar shall satisfy himself that the application is regular and has been submitted with the necessary supporting documents.

- 5.4.2 If the Registrar is not satisfied that the application is regular or has been submitted without the necessary supporting documents, he shall return the application to the proposed joint venture parties with a statement of the defects in the application and a request that the application be re-submitted, or require the applicant to submit such particulars or documents as the Council considers necessary.
- 5.4.3 Within thirty days of the receipt of an application that, to the Registrar's satisfaction, is regular and has been submitted with the necessary supporting documents, or of such particulars or documents as render the application regular, the Registrar shall submit the application to the Council for consideration.
- 5.4.4 The Council shall consider each application, at a Council meeting within thirty days of the submission of the application to the Council by the Registrar.
- 5.4.5 The decision to approve or not to approve the application shall be taken by a simple majority of the Council members present at the meeting.

5.5 Decision of the Council

- 5.5.1 Joint venture applicants shall be notified of the decision of the Council by the Registrar within thirty days of the date of the decision.
- 5.5.2 The notification under Rule 5.5.1 must state the date of the decision.

5.6 Endorsement of joint venture agreement

- 5.6.1 On notification by the Registrar that an application has been approved, the parties to the joint venture shall cause their joint venture agreement to be drawn up by a notary public or an attorney-at-law.
- 5.6.2 Three originals of the joint venture deeds shall be submitted to the Registrar for endorsement with the common seal of the Council. One original will be kept by the Council for record purposes and the other two originals returned to the applicants.

5.7 Registration Fee

- 5.7.1 Upon the approval of the joint venture application the parties to the joint venture shall pay a fee of Rs 50,000 within 14 days of being notified of the decision of the Council. Upon payment of the said fee the Council shall endorse the joint venture agreement within 14 days of it being submitted to the Registrar.
- 5.7.2 Failure to pay the registration fee within the period stipulated in paragraph 5.7.1 shall be treated as a withdrawal of the application by the applicants, and the approval of the Council shall lapse.
- 5.7.3 A draft agreement may be approved by the Council in the event of a joint venture agreement being entered into with the intention of entering an architectural competition. A fee of Rs 5,000 must be submitted with the application, such fee will be deducted from the full registration fee in the event the joint venture is successful in the competition and has to proceed with project. Should the application be rejected the applicants will be notified by the Council and the Rs 5,000 returned.

APPENDIX 1

THE PROFESSIONAL ARCHITECTS COUNCIL ACT 1988

LAWS OF MAURITIUS
THE PROFESSIONAL ARCHITECTS COUNCIL ACT 1988

Act no. 50 of 1988

Arrangement of Sections

Section

- | | |
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AN ACT

To provide for the establishment of a Professional Architects Council

ENACTED by the Parliament of Mauritius as follows –

1. Short title

This Act may be cited as the Professional Architects Council Act 1988.

2. Interpretation

In this Act –

“building” means any building or building complex the total floor area of which exceeds 250 square metres:

“Council” means the Council established under section 3.

“licensed architect” means a person who does not hold any formal qualification in architecture but is authorised by the Council to practise architecture.

“Mauritius Association of Architects” means the Mauritius Association of Architects duly registered under the Registration of Associations Act.

“member” means a member of the Council.

“Minister” means the Minister to whom responsibility for the subject of works is assigned.

“practice of architecture” means the advising on, the reporting on, the designing of and the provision of the construction of a building.

“professional architect” means a person registered as a professional architect under this Act.

“register” means the register specified in section 9.

“Registrar” means the registrar of the Council.

3. Establishment of Council

(1) There is established a Professional Architects Council which shall be responsible for the administration of this Act.

(2) The Council shall be a body corporate.

(3) The office of the Council shall be at such place as the Council may determine.

4. Composition of Council

(1) The Council shall consist of –

a. 4 professional architects who shall be public officers or persons in the employ of a parastatal body or a local authority : and

b. 3 professional architects nominated by the Mauritius Association of Architects or such other registered association of architects as the Minister may approve.

(2) All the members of the Council shall be appointed by the Minister.

(3) Notwithstanding section 13, the first members of the council will not require to be registered prior to their appointment.

(4) Four members shall constitute a quorum.

(5) The Council shall regulate its meetings and proceedings in such manner, as it thinks fit.

5. Chairman

The Chairman of the Council shall be elected by the members from among themselves.

6. Tenure of office members

The members will hold office for 2 years and shall be eligible for re-appointment.

7. Appointment of staff

- (1) Subject to the prior approval of the Minister, the Council may appoint on such terms and conditions as it thinks fit –
 - a. a Registrar who shall also be the Secretary – Treasurer of the Council.
 - b. such other staff as may be necessary for the proper discharge of its functions.
- (2) The staff shall be under the administrative control of the Registrar.
- (3) Service of control on or on behalf of the Council shall be made on or on behalf of the Registrar.

8. Powers of the Minister

The Minister may give such directions of a general character to the Council, not inconsistent with this Act, as he thinks fit and the Council shall comply with those directions.

9. Register

There shall be a register of professional architects in which the Registrar shall enter –

- (a) the full names, surnames, dates of birth and addresses of all persons approved by the Council as being qualified under this Act to be registered as professional architects.
- (b) the date and description of the qualifications in respect of which such registration is granted : and
- (c) such other particulars as the Council may deem fit.

10. Roll of Professional Architects

- (1) The Registrar shall, in January each year, transmit to the Minister a list of all professional architects registered as at 31st December of the preceding year.
- (2) The Minister shall, on receipt of the list specified in sub-section (1), cause it to be published in the Gazette as the Roll of Professional Architects of Mauritius.

11. Roll Fee

- (1) Every professional architect shall, on or before 30th June each year, pay to the Registrar such roll fee as may be determined by the Council, in respect of the year commencing on 1st January of that year.
- (2) Where a professional architect fails to comply with subsection (1), he shall be liable to pay a surcharge of 50 per cent of the roll fee.

- (3) Where a professional architect fails to pay his fee, together with any surcharge, by 30th September of the year in which it is due, his name may be removed from the register.
- (4) The Council may restore the name of a professional architect to the register upon a good cause shown and payment of the appropriate roll fee and surcharge.

12. Rules

- (1) The Council may make such rules as it thinks fit for the purposes of the Act.
- (2) Notwithstanding the Interpretation and General Clauses Act, any rule made under subsection (1) shall not be required to be –
 - a. laid before the Assembly; and
 - b. approved by the Minister.

13. Qualifications for registration

No person shall be registered as a professional architect under the Act unless he –

- a. satisfies the Council that –
 - (i) he has attained the age of 21;
 - (ii) he is of good repute and character; and
 - (iii) he is ordinary resident in Mauritius; and
- b. holds a qualification in architecture from such school, university or other institution –
 - (i) recognised by the Commonwealth Association of Architects (CAA);
 - (ii) of a member country of the European Economic Community recognised by the member country; or
 - (iii) which the Minister may, after consultation with the Council, approve;
- c. satisfies the Council that he has at least one year experience in the practice of architecture.

14. Application for registration

- (1) Any person who wishes to practise as a professional architect shall apply to the Council for registration.
- (2) An application to the Council under subsection (1) shall –
 - (a) be in such forms as the Council may approve; and
 - (b) be supported by such evidence as the Council may require.

15. Certificate of registration

- (1) The Council shall, on payment by a professional architect of the roll fee specified in section 11, issue to him a certificate of registration.
- (2) Every certificate issued under subsection (1) shall be valid for the year in respect of which it is issued.

16. Removal of names from register

- (1) The Council shall remove from the register the name of any person –
 - (a) who has died;
 - (b) who is provided with a guardian or curator under Book 1, Title XI chapters 2 to 4 of the Code Napoléon or is governed by section 45 of the Lunacy Act;
 - (c) who is convicted of any criminal offence which in the opinion of the Council renders him unfit to practice;
 - (d) who is, after due enquiry, adjudged by the Council to have been guilty in his professional capacity of infamous conduct, gross negligence or incompetence; or
 - (e) whose registration has been obtained by fraud or misrepresentation.
- (2) The Council shall, before removing the name of any person from the register under subsection (1) c, d or e, afford him a hearing.
- (3) The provisions of this section do not apply to any public officer in the discharge of his duties.

17. Appeal against decision of Council

- (1) Any person who is aggrieved by the refusal of the Council to register him or by the removal of his name from the register may, within 2 months after the date on which the notice is given by the Council of such refusal or removal, appeal by way of motion to the Supreme Court.
- (2) On an appeal under subsection (1), the Supreme Court may give such directions in the matter as it thinks proper.

18. Licensed architects

- (1) A person who is not qualified for registration under section 13 may, within six months of the date of coming into operation of this Act, apply to the Council for authorised to practise as a licensed architect.
- (2) The Council may, where it is satisfied that an applicant under sub-section (1) has practised architecture continuously during the ten years preceding the commencement of this Act as his sole means of livelihood, authorise him to practise as a licensed architect.

- (3) A person who is a qualified architect shall, if he practises or wishes to practise architecture, apply for registration within the period specified in subsection (1).

19. Use of words

- (1) Every professional architect shall be entitled to use or publish the words “Professional Architect” or the abbreviation “P.A.” in connection with his practice as a professional architect.
- (2) Every licensed architect shall be entitled to use or publish the words “Licensed Architect” or the abbreviation “L.A.” in connection with his practice as a professional architect.

20. Prohibited practice

Any person who, not being a professional architect or a licensed architect –

- (a) takes or uses the name or title “Professional Architect”, “Licensed Architect”, “Consulting Architect”, “Qualified Architect”, or “Architect” or any abbreviation thereof in whatever language, either alone or in connection with any other title, name, words or letters;
- (b) holds himself out or conducts himself in any way or by any means as a professional architect or as licensed architect; or
- (c) engages in the practice of architecture,

shall commit an offence and shall, on conviction, be liable for a first offence, to a fine not exceeding 2000 rupees and, for a subsequent offence to a fine not exceeding 5000 rupees and to imprisonment for a term not exceeding 6 months.

21. Saving

- (1) Nothing in this Act shall prevent or be deemed to prevent –
- a. any person from –
- (i) practising his profession, trade or calling as an engineer, land surveyor, quantity surveyor, interior decorator or designer, town planner, landscape architect or marine or naval architect.
- (ii) operating, executing or supervising any works as owner, contractor, superintendent, foreman, inspector or master.
- (iii) working as an employee or subordinate of a professional architect or licensed architect where such work does not include final designs or decisions and is done under the direct responsibility and supervision of a professional architect or licensed architect.

- b. any foreign architect from practising architecture unless –
 - (i) he satisfies the Council that he holds the qualification specified in section 13b; and
 - (ii) he enters into a joint venture with a professional architect.
- (2) Subsection (1) b. shall not apply to a foreign architect engaged in the practice of architecture in respect of a Government building.

22. Regulations

The Minister may make such regulations as he thinks fit for the purposes of this Act.

23. Penalty for fraudulent registration

Any person who –

- a. wilfully makes or causes to be made any false entry in or any falsification of the register,
- b. wilfully procures himself or any other person to be registered or licensed under this Act by producing or causing to be produced any false, forged or counterfeit degree, diploma, certificate, licence, letter, testimonial or other document or by making or causing to be made any false or fraudulent representation or declaration, either verbally or in writing,

shall commit an offence and shall on conviction, be liable to imprisonment for a term not exceeding 6 months.

Passed by the Legislative Assembly on the twenty-third day of December one thousand nine hundred and eighty-eight.