

The Gujarat Professional Civil Engineers Act, 2006

GUJARAT

India

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Act 19 of 2006

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The Gujarat Professional Civil Engineers Act, 2006 Gujarat Act No. 19 of 2006 (First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 31st March, 2006). An Act to provide for registration of Professional Civil Engineers and for matters connected therewith It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:-

Chapter I Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Gujarat Professional Civil Engineers Act, 2006. (2) It extends to the whole of the State of Gujarat. (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.

- In this act, unless the context otherwise requires-(a) "Council" means the Gujarat Council of Professional Civil Engineers established under section 3; (b) "member" means a member of the Council; (c) "President" means the President of the Council; (d) "professional civil engineer" means a person whose name is for the time being entered in the register; (e) "recognised engineering institution" means any University established by law in India or other institution in India or outside India which imparts education in engineering and confers a degree or diploma in engineering and is by notification in the Official Gazette, recognised by the Council in consultation with the State Government; (f) "register" means the register of professional civil engineers maintained under section 16; (g) "registrar" means the registrar appointed under clause (a) of sub-section (1) of section 11; (h) "regulation" means a regulation made under section 35 by the Council; (i) "rules" means a rules made under section 34 by the State Government; (j) "Vice-President" means the Vice-President of the

Council.

Chapter II

Gujarat Council of Professional Civil Engineers

3. Establishment and composition of Council.

(1) With effect from such date as the State Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established a Council to be called the Gujarat Council of Professional Civil Engineers. (2) The Council shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold or dispose of property, both movable and immovable and to contract and shall, by the said name sue or be sued. (3) The Council shall consist of the following members, namely;-(a) five professional civil engineers elected by professional civil engineers from amongst themselves, (b) (i) one person to be appointed by the State Government in Urban Development and Urban Housing Department from amongst the engineers employed for not less than ten years in the Municipal Corporations of cities in the State constituted under the Bombay Provincial Municipal Corporations Act, 1949 (Bombay LIX of 1949), ex-officio, (ii) one person to be appointed by the State Government in Roads and Buildings Department from amongst the engineers not below the rank of Chief Engineer employed in the Department and dealing with the subject of buildings, ex-officio, (iii) one person to be appointed by the State Government in the Narmada, Water Resources and Water Supply and Kalpsar Department, from amongst the engineers not below the rank of Chief Engineers employed in the Department ex-officio, (iv) Chief Town Planner to the Government of Gujarat, ex-officio. (c) one person to be appointed by the Director of Technical Education, Gujarat State, from amongst the professors in the faculties of the civil engineering and applied mechanics of the Universities established by law in the State and the professors of colleges affiliated to such Universities, imparting education in civil engineering, ex-officio, (d) two persons to be co-opted by the Council from among professional civil engineers. (4) Notwithstanding anything contained in clause (a) of sub-section (3), the State Government may, pending the preparation of the register, nominate to the first Council, in consultation with the Institution of Engineers (India), persons who are eligible to appear in the examination for registration under section 14 and the persons so nominated shall hold office for such period not exceeding three years in the aggregate as the State Government may, by notification in the Official Gazette, specify. (5) Notwithstanding anything contained in clause (d) of sub-section (3), the State Government may, pending preparation of the register, co-opt to the first Council persons who are eligible to appear in the examination for registration under section 14 and the persons so co-opted shall hold office for such period not exceeding three years in the aggregate as the State Government may, by notification in the Official Gazette, specify.

4. President and Vice-President of Council.

(1) The President and the Vice-President of the Council shall be elected by the members of the Council other than co-opted members from amongst themselves: Provided that on the first constitution of the Council and until the President is elected, a member of the Council nominated by

the State Government in this behalf shall discharge the functions of the President.(2)An elected President or Vice-President of the Council shall hold office for a term of four years or till he ceases to be a member of the Council, whichever is earlier, but subject to his being a member of the Council, he shall be eligible for re-election;Provided that-(a)the President or the Vice-President may, by writing under his hand addressed to the Vice-President or the President, as the case may be, resign his office:(b)the President or the Vice-President shall, notwithstanding the expiry of his term of four years, continue to hold office until his successor enters upon office:(3)The President and the Vice-President shall exercise such powers and discharge such duties as may be prescribed by regulations.

5. Mode of elections.

(1)Elections under this Chapter shall be conducted in such manner as may be prescribed by rule.(2)Where any dispute arises regarding any such election, the matter shall be referred by the Council to a Tribunal appointed by the State Government by notification in the Official Gazette, in this behalf, and the decision of the Tribunal shall be final and shall not be called in question in any court:Provided that no such reference shall be made except on an application made to the Council by an aggrieved party within thirty days from the date of the declaration of the result of the election.(3)The expenses of the Tribunal shall be borne by the Council.

6. Term of office and casual vacancies.

(1)(a)Subject to the provisions of this section, an elected member shall hold office for a term of three years from the date of his election or until his successor has been duly elected, whichever is later.(b)A member, co-opted under clause (d) of sub-section (3) of section 3, shall hold office for such term, not exceeding four years, as the Council may determine.(2)An elected, nominated or co-opted member may, at any time, resign his membership by writing under his hand addressed to the President, or in his absence, to the Vice-President, and the seat of such member shall thereupon become vacant.(3)A member shall be deemed to have vacated his seat-(i)if he is absent without excuse, sufficient in the opinion of the Council, from three consecutive ordinary meetings of the Council; or(ii)if he ceases to be a professional civil engineer referred to in clause (a) or (d) of sub-section (3) of section 3 or if he ceases to be a professor referred to in clause (c) of sub-section (3) of section 3.(4)A casual vacancy in the Council shall be filled by fresh election, nomination or, as the case may be, co-option and the person so elected or nominated or co-opted to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was elected or nominated or co-opted.(5)Members of the Council shall be eligible for re-election or re-nomination or re-co-option so however as not to exceed two consecutive terms.

7. Validity of act or proceeding of Council, not to be invalidated by reason of vacancy, etc.

(1)No act or proceeding of the Council shall be invalid merely by reason of-(a)any vacancy in, or defect in the constitution of the Council, or(b)any defect in the election or nomination or co-option

of a person acting as a member thereof, or(c)any irregularity in procedure not affecting the merits of the case.

8. Disqualifications.

- A person shall not be eligible for election or nomination or cooption as a member of the Council if he-(a)is an undischarged insolvent; or(b)has been convicted by a Court in India for any offence and sentenced to imprisonment for not less than two years, and shall continue to be ineligible for a further period of five years since his release; or(c)is of unsound mind and stands so declared by a competent court.

9. Meetings of Council.

(1)The Council shall meet at least once in every four months at such time and such place and shall observe such rules of procedure with regard to the transaction of business at its meetings as may be prescribed by regulations.(2)Unless otherwise prescribed by regulations, three members of the Council other than co-opted members shall form a quorum, and all the questions in a meeting of the Council shall be decided by a majority of the members present and voting.(3)In the case of an equal division of votes, the President, or in his absence, the Vice-President or, in the absence of both, the member presiding over the meeting, shall have and exercise a second or casting vote.(4)A co-opted member shall have the right to speak in and otherwise to take part in the proceedings of the Council but shall not be entitled to vote.

10. Fees and allowances to President, Vice-President and members.

- The President, the Vice-President and other members of the Council shall be entitled to such fees and allowances as the Council may, with the previous sanction of the State Government, fix in this behalf.

11. Officers and other employees of Council.

(1)The Council shall-(a)appoint a Registrar who shall act as its Secretary and who may also act, if so decided by the Council, as its treasurer;(b)appoint such other officers and employees as the Council deems necessary to enable it to carry out its functions under this Act; and(c)with the previous sanction of the State Government, fix the pay and allowances and other conditions of service of officers and other employees of the Council.(2)Notwithstanding anything contained in clause (a) of sub-section (1), for the first three years from the first constitution of the Council, the Registrar of the Council shall be a person appointed by the State Government who shall hold office during the pleasure of the State Government.(3)All the persons appointed under this section shall be the employees of the Council.

12. Fund of Council.

(1) There shall be established a Fund, under the management and control of the Council, consist of all moneys received by the Council and out of which shall be met all expenses and liabilities properly incurred by the Council. (2) The Council may invest any money for the time being standing to the credit of the Fund in any Government security or in any other security approved by the State Government. (3) The Council shall keep proper accounts of the Fund distinguishing capital from revenue. (4) The annual accounts of the Council shall be subject to audit by an auditor to be appointed annually by the Council. (5) As soon as may be practicable at the end of each financial year, but not later than the thirtieth day of September of the year next following, the Council shall cause to be published in the Official Gazette, a copy of the audited accounts and the report of the Council for that year and copies of the said accounts and report shall be forwarded to the State Government. (6) The Fund shall consist of- (a) all moneys received from the State Government by way of grant; (b) any sums received under this Act whether by way of fee or otherwise. (7) All moneys standing at the credit of Council, which cannot immediately be applied, shall be deposited in any bank specified in the Second Schedule to the Reserve Bank of India Act, 1934.

13. Functions of Council.

- Subject to the provisions of this Act, the Council shall perform the following functions, namely:- (a) to manage the property of the Council; (b) to manage and control the fund established under sub-section (1) of section 12; (c) to keep proper accounts of the fund; (d) to hold examinations prescribed by regulations; (e) to cause to prepare and maintain a register of professional civil engineers. (f) to grant or refuse certificate of practice; (g) to levy and collect fees from examinees, civil engineers applying for registration, professional civil engineers and others; (h) to remove from the register the names of professional civil engineers and to restore to the register the names of professional civil engineers which have been removed; (i) to prescribe standards of professional conduct and etiquette and code of ethics for professional civil engineers; (j) to exercise disciplinary powers conferred by this Act, and (k) to perform such other functions as are laid down in this Act and in the rules and regulations.

Chapter III

Registration of Professional Civil Engineers

14. Registration of Professional Civil Engineers.

(1) A person- (a) on whom a Master degree in Civil Engineering is conferred by a recognised engineering institution and who possesses experience of working as a civil engineer for a period of not less than three years after such conferment, or (b) on whom a Bachelor degree in Civil Engineering is conferred by a recognised engineering institution and who possesses experience of working as a civil engineer for a period of not less than four years after such conferment, or (c) on whom a diploma in civil engineering is conferred by a recognised engineering institution and who possesses experience of working as a civil engineer for a period of not less than six years after such

conferment, or(d)who possesses such other qualification as is recognised by the Council as being equivalent to the qualification mentioned in clause (a) or (b) and experience of working as a civil engineer for such period as may be prescribed by regulations, shall be eligible to appear for such examination as may be prescribed by regulations, on payment of such fees as may be prescribed by rules, and held by the Council and on passing such examination, such person shall be entitled to have his name entered in the register.(2)Notwithstanding anything contained in sub-section (1), a person, who, having possessed any of. the qualifications mentioned in clauses (a) to (d) of that sub-section, possesses at the commencement of this Act experience of working as a civil engineer for a period of not less than fifteen years, shall be entitled to have his name entered in the register during the period of two years from such commencement if the Council, on verification of his qualifications and experience in such manner as may be prescribed by regulations, is satisfied about the same.(3)Every person entitled under sub-section (1) or (2) to have his name entered in the register shall have his name entered in the register on application being made and granted in such manner as may be prescribed by regulations and on payment of such fees not exceeding twenty thousand rupees as may be prescribed by rules.(4)Any person whose application to have his name entered in register is rejected may, within three months of the date of such rejection of the application, appeal to the State Government and the decision of the State Government in such appeal shall be final and shall not be called in question in any court.(5)Upon entry in the register of a name under this section, the Registrar shall issue a certificate of practice in such form as may be prescribed by rules.

15. Certificate of practice.

(1)No person whose name is entered in the register shall be entitled to practice as a professional civil engineer unless he has obtained from the Council a certificate of practice.(2)Every such person shall pay such annual fee not exceeding twenty thousand rupees as may be prescribed by rules and such fee shall be payable on or before the 1st day of April in each year.

16. Preparation and maintenance of register.

(1)The Council shall, upon its constitution, cause to prepare a register of professional civil engineers in the State and maintain the same in accordance with the provisions of this Act.(2)The register shall include the following particulars, namely:-(a)the full name with date of birth, nationality and residential and professional address of the professional civil engineer;(b)the date on which his name is registered in the register;(c)his qualifications and the date on which he obtained those qualifications and the authority which conferred it; and(d)such further particulars as may be prescribed by rules.

17. Removal of name from Register.

(1)The Council may, by order, remove from the register the name of any professional civil engineer-(a)from whom a request has been received to that effect, or(b)who has died since the last publication of the register.(2)Subject to the provisions of this section, the Council may order that the name of any professional civil engineer be removed from the register where it is satisfied, after

giving him a reasonable opportunity of being heard and after such further inquiry, if any, as it may think fit to make-(a)that his name has been entered in the register by error or on account of misrepresentation or suppression of a material fact; or(b)that he has been convicted of any offence which, in the opinion of the Council, involves moral turpitude or has been guilty of any infamous conduct in any professional respect or has violated standards of professional conduct and etiquette or the code of ethics which, in the opinion of the Council, renders him unfit to be kept in the register;(c)that he is an undischarged insolvent; or(d)that he has been adjudged by a competent Court to be of unsound mind.(3)An order under sub-section (2) may direct that any professional civil engineer whose name is ordered to be removed from the register shall be ineligible for registration under this Act either permanently or for such period as may be specified.(4)A person aggrieved by an order under sub-section (2), of this section or subsection (2) of section 23 may, within sixty days from the communication to him of such order, appeal to the State Government and the decision of the State Government in such appeal shall be final and shall not be called in question in any court.(5)An order under sub-section (2) shall not take effect until the expiry of three months from the date thereof or until an appeal under sub-section (4) is disposed of, whichever date is later.

18. Surrender of certificate.

- A person whose name has been removed from the register under sub-section (1) or sub-section (2) of section 17, or sub-section (2) of section 23, or where such person is dead, his legal representative, as defined in clause (11) of section 2 of Code of Civil Procedure, 1908, shall forthwith surrender his certificate of practice to the Registrar and the name so removed shall be published in the Official Gazette.

19. Restoration of name to register.

- The Council may, at any time for reasons appearing to it to be sufficient and subject to the approval of the State Government, order that upon payment of such fee as may be prescribed by rules, the name of the person removed from the register shall be restored thereto.

20. Issue of duplicate certificates.

- Where it is shown to the satisfaction of the Registrar that a certificate of practice has been lost or destroyed, the Registrar may, on payment of such fee as may be prescribed by rules, issue a duplicate certificate in such form as may be prescribed by rules.

21. Printing of register.

- As soon as may be after the 1st day of April in each year, the Registrar shall cause to print copies of the register as it stood on the said date and such copies shall be made available to persons applying therefore on payment of such fee as may be prescribed by rules and shall be evidence that on the said date the persons whose names are entered therein were professional civil engineers.

Chapter IV

Misconduct

22. Professional conduct.

(1)The Council may by regulations prescribe standards of professional conduct and etiquette and a code of ethics for professional civil engineers.(2)The Regulations made by the Council under sub-section (1) may specify which violations thereof shall constitute infamous conduct in any professional respect, that is to say, professional misconduct, and such provisions shall have effect notwithstanding anything contained in any law for the time being in force.

23. Procedure in inquiries relating to misconduct.

(1)When on receipt of a complaint made to it, the Council is prima facie of the opinion that any professional civil engineer has been guilty of professional misconduct which, if proved, would render him unfit to practice as a professional civil engineer, the Council may hold an inquiry in such manner as may be prescribed by rules.(2)If after holding the inquiry under sub-section (1) and giving him an opportunity of being heard, the Council is of the opinion that the professional civil engineer has been guilty of professional misconduct, it may, by order, reprimand the said professional civil engineer or suspend him from practice as a professional civil engineer or remove his name from the register or pass such other order as it thinks fit.

Chapter V

Miscellaneous

24. Penalty for falsely claiming to be registered.

(a)If any person whose name is not for the time being entered in the register, falsely represents that it is so entered, or uses in connection with his name or title any words or letters reasonably calculated to suggest that his name is so entered, or(b)if any person being registered as a professional civil engineer but not having a certificate of practice represents that he is in practice or practices as a professional civil engineer;he shall be punishable with fine which may extend to five thousand rupees.

25. Prohibition against use of title.

(1)After the expiry of six months from the date of the preparation of the register, no person other than a registered professional civil engineer, or a firm of professional civil engineers shall use the title and style of professional civil engineer.(2)If any person contravenes the provisions of sub-section (1), he shall be punishable on first conviction with fine which may extend to five lakh rupees and on any subsequent conviction with imprisonment which may extend to six months or with fine not exceeding ten lakh rupees or with both.

26. Unqualified persons not to certify engineering designs.

(1)Notwithstanding anything contained in any law for the time being in force, after the expiry of two years from the commencement of this Act, no person shall certify an engineering design of-(a)a building the plinth area of which exceeds one hundred and forty square meters; or(b)a building the height of which exceeds the normal height of a building having the ground floor and first floor; or(c)a building which does not have load bearing type masonry structure; or(d)a building which is a part of a larger housing project comprising not less than three buildings, notwithstanding the plinth area of such building is one hundred and forty square meters, or less than one hundred and forty square meters;unless he is a professional civil engineer.(2)Any person contravening the provisions of sub-section (1) shall, without prejudice to any other proceedings which may be taken against him, be punishable with fine which may extend on first conviction to five thousand rupees and on any subsequent conviction with imprisonment which may extend to six months or with fine not exceeding ten thousand rupees or with both.

27. Failure to surrender certificate of practice.

- If any person whose name has been removed from the register fails without sufficient cause forthwith to surrender his certificate of practice, he shall be punishable with fine which may extend to fifty thousand rupees, and in the case of a continuing failure, with an additional fine which may extend to ten thousand rupees, for each day after the first during which he has persisted in the failure.

28. Cognisance of offences.

(1)No Court shall take cognizance of any offence punishable under this Act, except upon complaint made by order of the Council or a person authorised in this behalf by the Council.(2)No Magistrate other than a Metropolitan Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

29. Authority not to permit construction unless engineering design is certified by professional civil engineer.

- Notwithstanding anything contained in any law for the time being in force, after the expiry of two years from the commencement of this Act, the State Government or any of its officers or a Local Authority' or any of its officers or an Area Development Authority or Urban Area Development Authority constituted under the Gujarat Town Planning and Urban Development Act, 1976 (President's Rule 27 of 1976) or any of its officers shall not permit construction of a building falling under any of the clauses (a) to (d) of sub-section (1) of section 26 unless the engineering design of the building is certified by a professional civil engineer.

30. Information to be furnished by Council and publication thereof.

- (1) The Council shall furnish such reports, copies of the minutes and other information to the State Government as the Government may require.(2)The State Government may publish, in such manner as it may think fit, any report, copy or other information furnished to it under this section.

31. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against the State Government, the Council or any member of the Council, or officers and other employees of the Council for anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder.

32. Members of Council and officers and employees to be public servants.

- The members of the Council and officers and other employees of the Council shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

33. Power to remove difficulties.

(1)If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provision, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:Provided that no such order shall be made under this section after the expiry of two years from the date of commencement of this Act.(2)Every order made under this section shall, as soon as may be after it is made, be laid before the State Legislature.

34. Power to make rules.

(1)The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-(a)the manner in which the elections under Chapter II shall be conducted, the terms and conditions of service of the member of the Tribunal appointed under sub-section (2) of section 5 and the procedure to be followed by the Tribunal:(b)the fee to be paid under sub-sections (1) and (3) of section 14, sub-section (2) of section 15 and sections 19, 20 and 21;(c)the form in which a certificate of practice is to be issued under sub-section (5) of section 14;(d)further particulars to be included in the register under clause (d) of subsection (2) of section 16;(e)the form in which a duplicate certificate is to be issued under section 20;(f)the fee for supplying printed copies of the register under section 21;(g)the manner in which the Council shall hold an inquiry under sub-section (1) of section 23;(h)any other matter which is to be or may be provided by rules under this Act.(3)The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.(4)All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such

modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.(5)Any rescission or modification so made by the State Legislature shall be published in the Official Gazette, and shall thereupon take effect.

35. Power to make regulations.

(1)The Council may, with the approval of the State Government, make regulations not inconsistent with the provisions of this Act or the rules made thereunder, to carry out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such regulations may provide for-(a)the management of the property of the Council;(b)the powers and duties of the President and the Vice-President under sub-section (3) of section 4;(c)the summoning and holding of meetings of the Council, the times and places at which such meetings shall be held; the conduct of business thereat and the number of persons necessary to constitute a quorum under section 9;(d)the period of experience of working as a civil engineer to be possessed by a person for being eligible to appear at the examination under clause (d) of sub-section (1) of section 14;(e)the examination in which persons referred to in clauses (a) to (d) of the said sub-section (1) of section 14 shall be eligible to appear;(f)the manner in which the qualifications and experience shall be verified by the Council under sub-section (2) of section 14;(g)the manner in which an application is to be made and granted under sub-section (3) of section 14;(h)the standards of professional conduct and etiquette and a code of ethics to be observed by the professional civil engineer under section 22;(i)any other matter which is to be or may be provided by regulations under this Act.