

**THE URBAN AND REGIONAL PLANNERS
ACT, 2011**

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SCHEDULE

GOVERNMENT OF ZAMBIA

ACT

No. 4 of 2011

Date of Assent: 12th April, 2011

An Act to establish the Zambia Institute of Planners and provide for its functions; provide for the registration of planners and planning firms and regulate their professional conduct; and provide for matters connected with, or incidental to, the foregoing.

[15th April, 2011

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Urban and Regional Planners Act, 2010.

Short title

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

Interpretation

“allied profession” means a profession in architecture, land management, natural resources management, geography or sociology;

“certificate of registration” means the certificate of registration issued under section *fifteen*;

“Code of Ethics” means the code of professional conduct and ethics adopted and published by the Institute;

“constitution” means the constitution of the Institute adopted in accordance with section *five*;

“Council” means the Council of the Institute constituted under section *eight*;

“Disciplinary Committee” means the Committee constituted under section *forty-six*;

“Fund” means the Fund referred to under sub-paragraph (5) of paragraph 8 of the Schedule;

“Honorary Secretary” means a person elected Honorary Secretary under the provisions of the constitution of the Institute;

“Honorary Treasurer” means a person elected Honorary Treasurer under the provisions of the constitution of the Institute;

“Institute” means the Zambia Institute of Planners established under section *three*;

“inspector” means a person appointed as an inspector under section *eleven*;

“Member” means a person registered as a Member of the Institute in accordance with the provisions of the constitution of the Institute, and “membership” shall be construed accordingly;

“Past President” means a person who has held the office of President before the commencement of this Act;

“planner” means a person with special knowledge of urban designing, the environmental, social, economic and political issues with the spatial approach to problem solving acquired through planning education and experience;

“planning field” means the planning profession within which planners implement their knowledge and experience with practical, analytical and organisational skills;

“planning firm” means a statutory corporation, a company, a partnership, an association or other body, corporate or unincorporate, that provides a service through the application of planning skills and knowledge;

“planning work” means carrying out an undertaking relating to the planning field, and includes any consultancy in the planning field;

“planning” means an area of expertise which involves the initiation and management of change in the built, socio-economic and natural environment across a spectrum of areas, ranging from urban to rural areas delineated at different geographic scales in order to provide and utilise services, further human development and sustain the environment;

“practising certificate” means a certificate issued under section *twenty-four*;

“President” means the person elected President of the Institute pursuant to section *six*;

“professional misconduct” has the meaning assigned to it under section *forty-four*;

“Register” means the Register referred to under section *thirty-five*;

“Registrar” means the person appointed as Registrar under section *ten*; and

“VicePresident” means the person elected VicePresident of the Institute pursuant to section *six*.

PART II

THE ZAMBIA INSTITUTE OF PLANNERS

3. (1) There is hereby established the Zambia Institute of Planners which shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and shall, subject to the provisions of this Act, have power to do all such acts and things as a body corporate may, by law, do or perform.

Establishment
of Institute

(2) The provisions of the Schedule apply to the Institute.

4. (1) The functions of the Institute are to—

Functions of
Institute

(a) promote the spatial, aesthetic, economic and social development of urban and rural areas in the best interest of the community;

(b) register planners and planning firms and regulate their professional conduct;

(c) register students of planning;

(d) develop, promote, maintain and improve appropriate standards of qualification in the planning profession;

(e) develop, promote and enforce internationally comparable planning practice standards in Zambia;

(f) investigate allegations of professional misconduct and impose such sanctions as may be necessary;

(g) advise the Government on matters relating to the planning profession;

- (h) promote the general advancement of planners and allied professions for the improvement of the quality of life;
- (i) maintain and improve the standards of conduct and learning of planning and allied professions in Zambia;
- (j) facilitate the acquisition of knowledge by planners through the establishment of technical libraries, and the provision of monetary grants, books, apparatus and any other facilities necessary to achieve that end;
- (k) hold meetings of the Institute for the reading and discussion of papers of professional interest to make awards to authors of papers of special merit and to arrange for other activities of interest or benefit to planners;
- (l) raise the character and status of the planners and allied professions to promote honourable and good practice and increase the confidence of the community in planners and allied professions;
- (m) promote, protect and advance the general interests of planners and those engaged and interested in the planning field;
- (n) provide a forum for the communication and interchange of views on matters relating to planning and disseminate these views to the public;
- (o) in collaboration with the Disaster Management Unit, investigate and monitor national emergencies or disasters or any other matter of public concern caused by, or likely to be caused by planning services, and recommend appropriate preventive, rehabilitative or other measures;
- (p) represent, protect and assist planners with regard to their conditions of practice, remuneration or otherwise;
- (q) establish and maintain good relations with—
 - (i) other professional institutes and associations in Zambia;
 - (ii) other educational and scientific bodies in Zambia which have an interest in the planning profession and the education of planners in Zambia; or
 - (ii) similar institutions, associations or bodies in other countries; and
- (r) do all such other things as are necessary or incidental to the performance of its functions under this Act.

- (2) The Institute may—
 - (a) determine and levy fees that the Institute considers necessary to finance its activities under this Act;
 - (b) determine the fees payable for an inspection conducted for the purposes of this Act; and
 - (c) determine what portion of any fee is payable in respect of any part of a year and the date on which the fee or portion thereof is payable.

5. (1) The Institute shall, by a vote of at least two-thirds of the Members voting at a general meeting of the Institute, adopt a constitution and may, in the like manner, amend it. Constitution of Institute

(2) Subject to this Act, the constitution shall regulate the conduct of the affairs of the Institute.

(3) Subject to subsection (2), the constitution shall provide for the following matters:

- (a) the meetings of the Institute, including the delivery and sufficiency of notices of the meetings, the quorum, voting, adjournment and other matters of procedure or conduct of the meetings;
- (b) the election, qualifications and tenure of the President and VicePresident;
- (c) the composition, functions, powers and procedures of the committees of the Institute;
- (d) the establishment, powers and functions of the branches, sections and regions of the Institute;
- (e) the classes of membership and their rights, privileges and obligations; and
- (f) any other matter as the membership may determine.

6. The Members shall elect the President and the Vice-President of the Institute in accordance with the constitution. President and Vice-President of Institute

7. (1) Subject to this Act, the Institute may regulate its own procedure. Meetings of Institute

(2) The meetings of the Institute shall be conducted in accordance with the provisions of the constitution of the Institute.

(3) The validity of any proceedings, act or decision of the Institute shall not be affected by any person's absence from any meeting of the Institute or by reason that a person not entitled to do so took part in the proceedings.

PART III

THE COUNCIL OF THE INSTITUTE

Constitution
of Council

8. (1) There is hereby constituted the Council of the Institute which shall be responsible for the management and control of the affairs of the Institute.

(2) The Council shall be elected in accordance with the provisions of the constitution of the Institute.

(3) The Council shall consist of the following members:

- (a) the President;
- (b) the immediate past President;
- (c) the Vice-President;
- (d) the Honorary Secretary;
- (e) the Vice-Honorary Secretary;
- (f) the Honorary Treasurer;
- (g) a student member; and
- (h) two committee members.

(4) A person shall not be qualified to be elected or nominated as a member of the Council if the person—

- (a) has committed any professional misconduct within a period of five years preceding the election or nomination;
- (b) is in lawful custody or the person's freedom of movement is restricted under any law in force in, or outside, Zambia on the date of the election or nomination;
- (c) has not been on the Register for at least three years preceding the election or nomination; or
- (d) has been declared to be of unsound mind under any law.

(5) A member shall, subject to the other provisions of this Act, hold office for a term of three years and may be re-elected for a further term of three years.

(6) Upon the expiration of the term for which a member is elected or nominated, the member shall continue to hold office until another member is elected or nominated, but in no case shall any extension of the period exceed three months.

(7) The office of a member shall be vacated—

- (a) upon the members death;
- (b) if the member is adjudged bankrupt;

- (c) if the member is absent from three consecutive meetings of the Council, of which the member has had notice, without the prior approval of the Council;
- (d) upon the expiry of one month's notice of the member's intention to resign, given by the member, in writing, to the Council;
- (e) if the member becomes mentally or physically incapable of performing duties as a member;
- (f) if the member is found guilty of professional misconduct;
- (g) if the member's registration is cancelled; or
- (h) if the member is convicted of an offence under this Act or any other law and sentenced to a term of imprisonment exceeding six months.

(8) Where there is a vacancy in the membership of the Council before the expiry of the term of office, the Council shall appoint another person to replace the member who vacates office but that person shall only hold office for the remainder of the term.

(9) The provisions of the Schedule apply to the Council.

9. The functions of the Council are to—

Functions of
Council

- (a) perform all the functions of the Institute;
- (b) accredit planning educational institutions;
- (c) take such steps as may be considered necessary for the protection of the public and the improvement of standards of service rendered by planners;
- (d) promote an understanding of professional ethics amongst the planners and create awareness of the importance of protecting the environment against unsound planning practices;
- (e) ensure that the rules and guidelines for professional ethics developed by the Institute are responsive to the expectations of business institutions, the public and those who rely on planning work;
- (f) participate in the development of international planning practice standard setting;
- (g) make recommendations affecting, or relating to, the planning profession to the general meeting of the Institute;
- (h) promote continuing professional development among planners; and
- (i) do all such things and acts as the Institute or Council may do under this Act.

Registrar

10. (1) The Council shall appoint a Registrar who shall be the chief executive officer of the Institute and Secretary to the Council, on such terms and conditions as the Council may determine.

(2) The Council shall appoint a Deputy Registrar who shall assist the Registrar in performing the Registrar's functions under this Act.

(3) The Registrar and Deputy Registrar shall be registered planners.

(4) The Council may appoint, on such terms and conditions as it may determine, such other staff as it considers necessary for the performance of its functions under this Act.

Inspectors

11. (1) The Council shall appoint inspectors to ensure compliance with this Act.

(2) The Council shall provide an inspector with a certificate of appointment which shall be *prima facie* evidence of the inspector's appointment as such.

(3) An inspector shall, in performing any function under this Act —

(a) be in possession of the certificate of appointment referred to under subsection (2); and

(b) show the certificate of appointment to any person who requests to see the certificate or is subject to an investigation for purposes of this Act.

(4) An inspector may, for the purpose of enforcing the provisions of this Act, at any reasonable time, without prior notice, and on the authority of a warrant, enter any premises that the inspector has reasonable grounds to believe is used by a planner or planning firm for the commission of an offence or contrary to the provisions of this Act, and

(a) search the premises;

(b) search any person on the premises if the inspector has reasonable grounds to believe that the person has possession of an article, document or record that has a bearing on an investigation:

Provided that a person shall only be searched by a person of the same sex;

(c) take extracts from, or make copies of any book, document or record that is on the premises and that has a bearing on an investigation;

(d) demand the production of, and inspect, relevant certificates; and

(e) make such inquiries as may be necessary to ascertain whether the provisions of this Act or any other law on which an investigation is based, have been complied with.

(5) A person who—

(a) delays or obstructs an inspector in the performance of the inspector's functions under this Act;

(b) refuses to give an inspector such reasonable assistance as the inspector may require for the purpose of exercising the inspector's functions;

(c) impersonates an inspector or presents oneself to be an inspector; or

(d) gives an inspector false or misleading information in answer to an inquiry made by the inspector;

commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(6) An inspector shall furnish the Council with a written report and any other information relating to an inspection.

PART IV

REGISTRATION OF PLANNERS AND PLANNING FIRMS

12. (1) There shall be such classes of membership as shall be provided for in the constitution of the Institute.

Classes of membership

(2) Each class of membership shall have such rights, privileges and obligations as may be prescribed in the constitution of the Institute.

(3) A person may apply to the Institute for registration as a Member in accordance with the provisions of the constitution of the Institute.

(4) The Council may categorise the type of planning work to be performed by each class of membership.

13. (1) A person shall not practise as a planner unless that person is registered as a Member under the constitution of the Institute.

Prohibition of person practising without registration

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

Application
for
registration

14. (1) A person shall apply to the Council for registration as a planner in the prescribed manner and form upon payment of the prescribed fee.

(2) The Council may, within thirty days of receipt of an application under subsection (1), grant or reject the application.

(3) The Council shall, where it rejects an application under subsection (2), inform the applicant accordingly and give the reasons therefor.

Registration
of planners

15. (1) The Council shall, where an applicant meets the requirements of this Act, issue the applicant with a certificate of registration if the applicant—

(a) is registered as a Member in accordance with the provisions of the constitution of the Institute;

(b) possesses such knowledge, training and experience as may be prescribed;

(c) holds a qualification from a training institution recognised by the Institute;

(d) is resident in Zambia, or has an established office or appointment in Zambia in the planning profession or allied profession;

(e) is of good character and good professional standing; and

(f) meets such other requirements as the Institute may determine.

(2) The Minister may, by statutory instrument, on the recommendation of the Institute, prescribe the qualifications for registration of a person as a planner.

Prohibition
of planning
firm
practising
without
registration

16. (1) A planning firm shall not provide any planning service or undertake any planning work unless that planning firm is registered in accordance with this Act.

(2) A planning firm that contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding one million penalty units.

Application
for
registration
of
planning
firm

17. (1) A planning firm or any other body intending to provide any planning service or to undertake any planning work shall apply to the Council for registration in the prescribed manner and form upon payment of the prescribed fee.

(2) The Council shall, within thirty days of receipt of an application under subsection (1), where the applicant meets the requirements of this Act, issue the applicant with a certificate of registration in a planning field if—

(a) the planning firm intends to practice in the planning field;
and

(b) the planning firm has an established office or appointment
in Zambia in planning or an allied profession.

(3) The Council shall, where it rejects an application, inform
the applicant accordingly and give the reasons therefor.

18. (1) A planner registered under this Act shall use the
following titles and abbreviations:

Titles for
registered
planner

<i>Title</i>	<i>Abbreviation</i>
Fellow of Zambia Institute of Planners	FZIP
Member of Zambia Institute of Planners	MZIP
Technician of Zambia Institute of Planners	Tec ZIP
Associate of Zambia Institute of Planners	AZIP

(2) A person shall not use a title or abbreviation under
subsection (1) unless the person is registered in accordance with
this Act.

(3) A person who contravenes subsection (2) commits an
offence and is liable, upon conviction, to a fine not exceeding five
hundred thousand penalty units or to imprisonment for a period not
exceeding five years, or to both.

19. (1) A person shall not qualify for registration as a planner
under this Act if the person

Disqualification
from
registration

(a) has been convicted of an offence involving fraud or
dishonesty under this Act or any other law;

(b) has been declared to be of unsound mind under any law in
force in Zambia;

(c) is an undischarged bankrupt; or

(d) has been found, by the Disciplinary Committee, to be
guilty of professional misconduct.

20. The Institute shall register students of planning in
accordance with the provisions of the constitution of the Institute.

Registration
of students
of planning

21. Any person registered under this Act, shall notify the
Registrar of any change in particulars relating to the registration,
within seven days of the change.

Changes in
detail

Cancellation
of
registration

22. (1) The Council shall cancel the registration of a planner, a planning firm or planning student where—

- (a) the Council has reasonable grounds to believe that the registration was obtained through fraud, misrepresentation or concealment of any material fact;
- (b) the planner or planning firm is found guilty of professional misconduct under this Act or the Code of Ethics;
- (c) the period for which the registration of the planner, planning firm or planning student was issued has lapsed;
- (d) the planner, planning firm or planning student is convicted of an offence under any law; or
- (e) since the registration, circumstances have arisen disqualifying the planner, planning firm, or planning student from registration.

(2) The Council shall, before cancelling the registration under subsection (1), give the planner, planning firm or planning student an opportunity to be heard.

(3) The Council may, before cancelling the registration of a planner, planning firm or planning student, suspend the planner, planning firm or planning student for such period and on such terms and conditions as the Council may determine.

(4) Where the Council cancels a certificate of registration under this section, the name of the planner, planning firm or planning student shall not be restored except on such conditions as may be prescribed by the Council and upon payment of the prescribed fee.

Prohibition
of practise
without
practising
certificate

23. (1) A person shall not practise as a planner unless that person holds a practising certificate issued by the Council under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

Application
for practising
certificate

24. (1) A planner shall apply to the Council for a practising certificate in the prescribed manner and form upon payment of the prescribed fee.

(2) The Council shall, within thirty days of the receipt of an application under subsection (1) and where the application meets such requirements as may be prescribed, issue the applicant with a practising certificate.

25. A holder of a practising certificate shall display the practising certificate in a conspicuous place at the place of practice.

Display of practising certificate

26. Subject to the Competition and Consumer Protection Act, 2010, a holder of a practising certificate shall for planning services rendered, charge such fees as the Minister may prescribe, by statutory instrument, on the recommendation of the Council.

Fees for planning works
Act No. 24 of 2010

27. (1) A practising certificate shall be renewed annually in the prescribed manner and form upon payment of the prescribed fee.

Renewal of practising certificate

(2) A practising certificate that is not renewed in accordance with subsection (1) is void.

(3) A planner who practises planning or provides any planning service during any period in which a practising certificate is void commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a period not exceeding seven years, or to both.

28. (1) The Council shall cancel a practising certificate if the holder—

Cancellation of practising certificate

- (a) is found guilty of any professional misconduct;
- (b) is declared to be of unsound mind;
- (c) is an undischarged bankrupt;
- (d) contravenes the provisions of any law and is sentenced for a period exceeding six months;
- (e) obtained the practising certificate through fraud, misrepresentation or concealment of a material fact; or
- (f) commits an offence under this Act or contravenes the Code of Ethics.

(2) Where a certificate of registration is cancelled under this Act, the practising certificate held by the holder of the certificate of registration shall be void and shall be surrendered to the Council.

(3) The Council shall, before cancelling a practising certificate under this section, give the holder of the practising certificate an opportunity to be heard.

(4) The Council may, before cancelling the practising certificate of a planner, suspend the planner for such period and on such terms and conditions as the Council may determine.

Regulations relating to practising certificates	<p>29. The Minister may, by statutory instrument, on the recommendation of the Council, make regulations to provide for—</p> <p>(a) the terms and conditions for the issuance of practising certificates;</p> <p>(b) the type of continuous professional development and training and any other information required for the issuance of a practising certificate; and</p> <p>(c) any other matter necessary for purposes of this Act.</p>
Conditions of certificate	<p>30. A certificate issued under this Part shall contain such terms and conditions of the certificate as the Council may determine.</p>
Prohibition of transfer of certificate	<p>31. A certificate issued under this Part shall not be transferred to a third party.</p>
Re-registration	<p>32. Where a certificate of registration has been cancelled or suspended, the holder of the certificate of registration may, subject to such terms and conditions as the Council may determine, apply for reregistration.</p>
Duplicate certificate of registration	<p>33. (1) A person whose certificate of registration is destroyed or lost may apply to the Registrar for a duplicate certificate in the prescribed manner and form upon payment of the prescribed fee.</p> <p>(2) The Registrar may, upon receipt of an application under subsection (1), issue a duplicate certificate of registration to the applicant.</p>
Certificate of status	<p>34. (1) A person may apply to the Registrar for a certificate of status containing particulars relating to the registration of a planner, planning firm or planning student in the prescribed manner and form and upon payment of the prescribed fee.</p> <p>(2) The Registrar may, within thirty days of the receipt of an application under subsection (1), issue a certificate of status to the applicant in the prescribed form.</p>
Register	<p>35. (1) The Registrar shall keep and maintain a Register of all persons registered under this Act, in which the Registrar shall enter the details and particulars relating to—</p> <p>(a) registered planners, planning firms or planning students;</p> <p>(b) the holders of practising certificates;</p> <p>(c) the applications rejected and the reasons therefor; and</p> <p>(d) any other information as the Council may determine.</p>

(2) The Register shall be kept in the custody of the Registrar at the offices of the Institute, and shall be open for inspection by members of the public during normal office hours upon payment of such fee as the Council may determine.

(3) The Registrar may, upon application by any person, issue to the person a certified extract from the Register or a copy of a certificate of registration, upon payment of such fee as the Council may determine.

36. (1) The Minister may, on the recommendation of the Council, make regulations prescribing the circumstances and manner in which a planner, planning firm or planning student

Removal and restoration of name on Register

(a) may be removed from the Register; and

(b) who is removed from the Register, may be restored on the Register and the fee to be paid for the restoration.

(2) Subject to subsection (1), a planner, planning firm or planning student who is removed from the Register ceases to be registered as a planner, planning firm or planning student.

(3) The Council may, where a holder of a practising certificate does not intend to practise for a specified period of time, maintain the name of the holder of the practising certificate on the Register, in a non-practising category, for that period of time.

37. (1) The Registrar shall, on the direction of the Council, cause copies of the Register and any alterations thereof, or additions thereto, to be printed and published in such manner and form as the Council may direct.

Publication of copies of Register

(2) Subject to this Act, a copy of the last published and printed Register shall be evidence admissible in all legal proceedings of what is contained in that Register and the absence of the name of a planner, planning firm or planning student from that copy shall be *prima facie* evidence that the planner, planning firm or planning student is not registered.

38. (1) A person aggrieved with a decision of the Council may, within thirty days of receiving the decision, appeal to the Minister.

Appeals

(2) A person aggrieved with a decision of the Minister may, within thirty days of receiving the decision, appeal to the High Court.

39. (1) A person shall not, unless the person is registered as a planner or planning firm under this Act

Holding out as planner or planning firm

(a) practice as, be employed as, offer planning services, be engaged as an agent of, or hold out to be, a planner or planning firm;

(b) adopt, use or exhibit the titles “registered planner,” “registered planning firm”, or any other title or abbreviation of like description; or

(c) do anything likely to lead persons to infer that the person is a registered planner or planning firm.

(2) A person or body corporate shall not offer employment to a person requiring registration under this Act.

(3) A planner or planning firm shall not permit the planner’s or planning firm’s name to be used by a person who is not a registered planner or planning firm.

(4) A person who contravenes subsection (1), (2) or (3) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

(5) Where a planner or planning firm commits an act which if done by an individual would be an offence under subsection (3), every partner in that firm shall be deemed to have committed the offence unless the partner proves that the offence was committed without the partner’s knowledge or consent.

Enforcement notice

40. (1) The Council may, where a planning firm is being operated in contravention of this Act, by notice served on the planning firm, direct it to take, within such period as may be specified in the notice, such measures or steps as the Council may direct.

(2) The Council shall, within seven days after serving the notice referred to in subsection (1), publish the notice in a daily newspaper of general circulation in Zambia.

(3) Where the planning firm fails, without reasonable cause, to comply with an enforcement notice issued under subsection (1), the Council may suspend or cancel the certificate of registration of the planning firm.

Offences regarding registered planner or planning firms

41. (1) A person shall not—

(a) make or cause to be made an unauthorised entry, alteration or erasure in the Register or a certified copy of an entry in the Register or a certificate of registration or other certificate issued under this Act;

(b) impersonate or use the title of a registered planner or planning firm while not registered as such under this Act;

(c) procure, or attempt to procure, registration under this Act, by fraud, misrepresentation or the concealment of a material fact; or

(d) forge a certificate of registration or other certificate issued under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a period not exceeding seven years, or to both.

42. (1) The Minister may, on the recommendation of the Institute, by statutory instrument, recognise any foreign institution providing training in planning.

Recognition
of foreign
qualifications
and
institutions

(2) The Institute may register a person as a planner under subsection (2) of section *fifteen*, who is not a citizen of Zambia or is not practising or working as a planner in Zambia prior to the application, if that person—

(a) is engaged to work as a planner in Zambia under an international agreement entered into by the Government of the Republic of Zambia; or

(b) undertakes such number of courses as the Institute may determine and passes the final examination for the courses.

(3) Notwithstanding anything to the contrary in the Immigration and Deportation Act, 2010, an immigration officer shall not, without the approval of the Institute, issue an employment or entry permit to a person who intends to practise, or be employed, as a planner in Zambia.

Act No. 18
of 2010

(4) A person who contravenes this section commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

PART V

DISCIPLINARY COMMITTEE

43. The Council shall adopt and publish a Code of Ethics for planners and planning firms which shall bind all planners and planning firms regulated under this Act.

Code of
Ethics

44. A planner or planning firm commits professional misconduct if the planner or planning firm—

Professional
misconduct

(a) contravenes the provisions of this Act;

(b) unlawfully discloses or uses to the advantage of the planner or planning firm any information acquired in the practise of the planner or planning firm;

- (c) engages in conduct that is dishonest, fraudulent or deceitful;
- (d) commits an offence under any other law;
- (e) engages in any conduct that is prejudicial to the planning profession or is likely to bring it into disrepute; or
- (f) breaches the Code of Ethics or encourages another planner or planning firm to breach or disregard the principles of the Code of Ethics.

Initiation of disciplinary action

45. (1) A person may lodge a complaint with the Disciplinary Committee against a planner or planning firm where the person alleges that the planner or planning firm has contravened the Code of Ethics or any provision of this Act.

(2) The Institute may initiate disciplinary action under this section where it has reasonable grounds to believe that a planner or planning firm has contravened the Code of Ethics or any provision of this Act.

(3) A complaint or allegation shall be made to the Registrar in the prescribed manner and form.

Disciplinary Committee

46. (1) The Institute shall establish a Disciplinary Committee which shall comprise the following members:

- (a) a Chairperson;
- (b) a Vice-Chairperson;
- (c) the President of the Council; and
- (d) five registered planners who are not members of the Council, elected at a general meeting of the Institute.

(2) The Chairperson and Vice-Chairperson of the Disciplinary Committee shall be legal practitioners qualified to hold, or who have held, high judicial office.

(3) A person shall not be appointed as a member of the Disciplinary Committee if the person—

- (a) has committed or been convicted of any professional misconduct;
- (b) is in lawful custody or the person's freedom of movement is restricted under any law in force within or outside Zambia;
- (c) has been convicted of an offence under any law and sentenced to a term of imprisonment for a period exceeding six months; or
- (d) is declared to be of unsound mind under any written law.

(4) A member of the Disciplinary Committee shall hold office for three years and may be appointed for a further term of three years.

(5) A member of the Disciplinary Committee shall not serve for more than two terms.

(6) The Chairperson, or in the absence of the Chairperson, the Vice-Chairperson, shall preside at every meeting and sitting of the Disciplinary Committee.

47. (1) The functions of the Disciplinary Committee are to hear and determine

Functions of
Disciplinary
Committee

(a) any disciplinary action initiated by the Institute against a planner or planning firm that has contravened any provision of the Code of Ethics or any provision of this Act; or

(b) any complaint or allegation made by any person against a planner or planning firm.

(2) The Disciplinary Committee may publicise, as it may consider appropriate, the facts relating to any planner or planning firm that is found guilty of, and punished for, professional misconduct.

48. (1) Five members of the Disciplinary Committee shall form a quorum.

Proceedings
of
Disciplinary
Committee

(2) Any question at a sitting or meeting of the Disciplinary Committee shall be decided by a majority of the votes of the members of the Disciplinary Committee at the sitting or meeting and in the event of an equality of votes, the person presiding at the sitting or meeting shall have a casting vote in addition to that person's deliberative vote.

(3) All proceedings of the Disciplinary Committee shall be in camera.

(4) The Disciplinary Committee shall cause to be kept a record of its proceedings.

(5) A party to a hearing of the Disciplinary Committee may be represented by a legal practitioner or, if the party so elects, by any other person or in person.

(6) A decision of the Disciplinary Committee shall be in the form of a reasoned judgment and a copy thereof shall be supplied to each party to the proceedings and to every person affected by the decision.

(7) If a person is present at a meeting of the Disciplinary Committee at which any matter is the subject of consideration, and in which matter the person or that person's spouse is directly or indirectly interested in a private capacity, that person shall, as soon as is practicable after the commencement of the meeting, disclose the interest and shall not, unless the Disciplinary Committee otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter.

(8) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

Powers of
Disciplinary
Committee

49. (1) The Disciplinary Committee may, for the purposes of any hearing, hear and receive evidence and may, under the hand of the Chairperson of the Disciplinary Committee or the Registrar, summon witnesses and require the production of any book, record, document, electronic record or anything required for the purposes of the proceeding, and may through the Chairperson or Vice-Chairperson of the Disciplinary Committee administer an oath to any witness.

(2) A person summoned to attend before the Disciplinary Committee who, without sufficient cause—

(a) refuses or fails to attend at the time and place specified in the summons or, having attended, leaves without the permission of the Disciplinary Committee;

(b) having attended, refuses to be sworn or to affirm;

(c) refuses, without lawful excuse, to answer fully and satisfactorily to the best of that person's knowledge and belief, any question lawfully put to that person; or

(d) refuses to produce any book, record, document or thing which that person has been required by summons to produce;

commits an offence and is liable, upon conviction, for every such refusal or failure, to a fine not exceeding twenty thousand penalty units.

(3) A person shall not be compelled to answer any question or produce any book, record or document which that person would not be compelled to answer or produce on the trial of an action in the High Court.

(4) A hearing before the Disciplinary Committee shall, for all purposes, and in particular for the purposes of Chapter XI of the Penal Code, be deemed to be a judicial proceeding.

(5) Where the Disciplinary Committee, after due inquiry, finds a planner or planning firm guilty of professional misconduct, it may impose one or more of the following penalties:

- (a) order the cancellation of a practising certificate or certificate of registration of the planner or planning firm, or modify the fields of speciality in which the planner or planning firm may practise;
- (b) censure the planner or planning firm;
- (c) caution the planner or planning firm;
- (d) impose a fine, not exceeding three hundred thousand penalty units to be paid to the Institute;
- (e) order the planner or planning firm to pay to the Institute or to any other party to the hearing, any costs of, or incidental to, the proceedings;
- (f) order the planner or planning firm to pay any party to the hearing or other person, as restitution, the amount of loss caused by that person's negligence; or
- (g) impose any reasonable conditions for the suspension, for a period not exceeding one year, of the certificate of registration or practising certificate of the planner or planning firm.

(6) In any hearing before the Disciplinary Committee, any finding of fact which is shown to have been made by any court in Zambia shall be conclusive evidence of the fact so found.

(7) The Disciplinary Committee shall, where it has reasonable cause to believe that a planner is, or has become mentally unsound to the extent that the continued practising by the planner is prejudicial to public interest, refer the matter for determination by a medical doctor.

(8) The Disciplinary Committee shall, where a medical doctor determines that a planner is of unsound mind, suspend the practising certificate of the planner.

(9) The Disciplinary Committee shall, where after due inquiry, it finds a planner or planning firm not guilty of professional misconduct, record a finding that the planner or planning firm is not guilty of such conduct in respect of matters of which the charge relates.

(10) The Disciplinary Committee may, for the purpose of any proceedings use such assessors or experts as it may determine.

Reports by
Disciplinary
Committee

50. The Disciplinary Committee shall, as soon as practicable after the completion of each hearing, submit to the Council a report of the proceedings together with a copy of the record.

Appeals to
High Court

51. (1) A person aggrieved with a decision of the Disciplinary Committee may, within thirty days of receiving the decision, appeal to the High Court.

(2) The Institute shall be the respondent on any appeal under this section.

(3) A decision of the Disciplinary Committee under this Part shall not take effect until the expiration of the time for lodging an appeal against the decision or, if an appeal is lodged, until the time the appeal is disposed of, withdrawn or struck out for want of prosecution, as the case may be.

(4) The High Court may, on any appeal under this section

(a) confirm, vary or set aside any finding made, penalty imposed or direction given by the Disciplinary Committee;

(b) remit the matter to the Disciplinary Committee for further consideration in accordance with such directions as the High Court may give; or

(c) make such other order as to costs or otherwise as it considers appropriate.

(5) Proceedings of the Disciplinary Committee shall not be set aside by reason only of some irregularity in those proceedings if such irregularity did not occasion a substantial miscarriage of justice.

Rules by
Chief Justice

52. The Chief Justice may, by statutory instrument, make rules regulating appeals to the High Court under this Part.

Rules
relating to
disciplinary
proceedings

53. (1) The Chief Justice may, by statutory instrument, on the recommendation of the Council, make rules relating to—

(a) the manner and form for lodging of complaints under this Part;

(b) the mode of summoning persons before the Disciplinary Committee;

(c) the form and manner of service of a summons requiring the attendance of a witness before the Disciplinary Committee and the production of any book, record, document or thing;

- (d) the procedure to be followed and rules of evidence to be observed in proceedings before the Disciplinary Committee; and
 - (e) the functions of the assessors to the Disciplinary Committee.
- (2) Rules made under this section may, in particular, provide
- (a) that before any matters are referred to the Disciplinary Committee they shall, in such manner as may be provided by the rules, have been brought before, and investigated by, the Institute in this respect;
 - (b) for securing notices for the proceedings and specifying the time and manner of the proceedings; and
 - (c) for securing that any party to the proceedings shall, if that person requires, be entitled to be heard by the Disciplinary Committee.

PART VI

GENERAL PROVISIONS

54. (1) A court of competent jurisdiction shall have jurisdiction over planners or planning firms for any act committed outside Zambia which, if it had been committed in Zambia, would have been an offence or professional misconduct under this Act.

Jurisdiction over acts committed outside Zambia

(2) Any proceedings against a planner or planning firm under this section which would be a bar to subsequent proceedings against the planner or planning firm, for the same offence, if the offence had been committed in Zambia, shall be a bar to further proceedings against the planner or planning firm under any written law relating to the extradition of persons, in respect of the same offence outside Zambia.

(3) The Mutual Legal Assistance in Criminal Matters Act shall apply to proceedings under this Act.

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55. In any criminal proceedings against a planner or planning firm upon a charge of having performed an act which constitutes an offence if performed by an unregistered planner or planning firm, the planner or planning firm charged shall be presumed to be unregistered unless that planner or planning firm proves the contrary.

Presumption of non-registration

- No execution on property of Institute **56.** Notwithstanding anything to the contrary contained in any written law, where a judgment or order has been obtained against the Institute, no execution or attachment, or process of any nature, shall be issued against the Institute or against the property of the Institute, but the Registrar shall cause to be paid out of the revenue of the Institute such amount as may, by the judgment or order, be awarded against the Institute to the person entitled to the amount.
- General penalty **57.** A person who contravenes a provision of this Act for which a specific penalty is not provided, is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.
- Offences by body corporate or unincorporate body **58.** Where an offence under this Act is committed by a body corporate or an unincorporate body, every director or manager of the body corporate or an unincorporate body shall be liable, upon conviction, as if the director or manager had personally committed the offence, unless the director or manager proves to the satisfaction of the court that the act constituting the offence was done without the knowledge, consent or connivance of the director or manager or that the director or manager took reasonable steps to prevent the commission of the offence.
- Authority to issue guidelines **59.** (1) In the exercise of its functions under this Act, the Institute may issue such guidelines as are necessary for the better carrying out of the provisions of this Act.
(2) The Institute shall publish the guidelines issued under this Act in a daily newspaper of general circulation in Zambia, and the guidelines shall not take effect until they are so published.
(3) The guidelines issued by the Institute under this Act shall bind all persons regulated under this Act.
- Regulations **60.** (1) The Minister may, by statutory instrument, on the recommendation of the Council, make regulations for the better carrying out of the provisions of this Act.
(2) Notwithstanding the generality of subsection (1), regulations under that subsection may make provision for—
(a) the forms, fees payable and the procedure for applications to be made under this Act;
(b) the information and documents to be submitted in support of applications to be made under this Act;
(c) the form and the particulars to be entered on the Register;
(d) the form of the certificate of registration and the conditions under which the certificate of registration is issued;

- (e) the form of the practising certificate and the conditions under which the practising certificate is issued;
- (f) the qualifications for registration of a planner, planning firm or planning student;
- (g) the requirements and conditions for the recognition of local and foreign qualifications accredited by the Institute for purposes of registration under this Act;
- (h) the composition, functions, powers and procedures of a committee established under this Act;
- (i) the regulation of powers exercisable by the Council, its committees and bodies of the Institute;
- (j) the code of conduct to which all Members of the Institute shall subscribe, the continuous professional development and ethics for planners and planning firms;
- (k) the fixing of fees for professional services and any other fees which are required to be prescribed; and
- (l) generally, the carrying into effect of the purposes of this Act.

SCHEDULE

(Sections 3 (2))

PART I

ADMINISTRATION OF INSTITUTE

1. (1) The seal of the Institute shall be such device as may be determined by the Council and shall be kept by the Registrar.

Seal of
Institute

(2) The President or the Vice-President, the Registrar or any other person authorised by a resolution of the Council to so act, shall authenticate the affixing of the seal.

(3) Where a contract or instrument is not required to be under seal, the Registrar or a person authorised by the Council in that behalf, may execute the contract or instrument on behalf of the Council without seal.

(4) A document purporting to be a document under the seal of the Institute or issued on behalf of the Institute, shall be received in evidence and shall be executed or issued, as the case may be, without further proof, unless the contrary is proved.

Proceedings
of Council

2. (1) Subject to the other provisions of this Act, the Council may regulate its own procedure.

(2) The Council shall meet for the transaction of business at least once in every three months at such places and times as the Council may determine.

(3) Upon giving notice of not less than fourteen days, a meeting of the Council may be called by the President and shall be called if not less than one-third of the members so request in writing:

Provided that if the urgency of a particular matter does not permit the giving of notice, a special meeting may be called upon giving a shorter notice.

(4) One half of the members of the Council shall form a quorum.

(5) There shall preside at a meeting of the Council—

(a) the President;

(b) in the absence of the President, the Vice-President; or

(c) in the absence of the President and the Vice-President, a member of the Council as the members present may elect from amongst themselves for the purpose of that meeting.

(6) A decision of the Council on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have, in addition to a deliberative vote, a casting vote.

(7) Where a member is for any reason unable to attend a meeting of the Council, the member may, in writing, nominate another person from the same organisation to attend the meeting in that member's stead and such person shall be deemed to be a member for the purpose of that meeting.

(8) The Council may invite any person whose presence, in its opinion, is desirable to attend and participate in the deliberations of a meeting of the Council, but that person shall have no vote.

(9) The validity of any proceedings, act or decision of the Council shall not be affected by any vacancy in the membership of the Council or any defect in the appointment of any member or by reason that any person not entitled to do so, took part in the proceedings.

(10) The Council shall cause minutes to be kept of the proceedings of every meeting of the Council and any committee established by the Council.

3. (1) The Council may, for the purpose of performing its functions under this Act, constitute a committee and delegate to the committee such functions of the Council as it considers necessary.

Committees

(2) The Council may appoint as members of a committee constituted under subparagraph (1), persons who are, or are not, members of the Council and such persons shall hold office for such period as the Council may determine.

(3) Subject to any specific or general direction of the Council, any committee constituted under this paragraph may regulate its own procedure.

4. A member of the Council, or any committee thereof, shall be paid such allowances as the Council may, with the approval of the Minister, determine.

Allowances

5. (1) If any person is present at a meeting of the Council, or a committee of the Council, at which any matter, in which that person or that person's spouse is directly or indirectly interested in a private capacity, is the subject of consideration, that person shall, as soon as practicable after the commencement of the meeting, disclose that interest and shall not, unless the Council or the committee otherwise directs, take part in any consideration or discussion of, or vote on any question relating to that matter.

Disclosure of interest

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which the disclosure is made.

6. (1) A person shall not, without the consent in writing given by or on behalf of the Council, publish or disclose to any unauthorised person, otherwise than in the course of that person's duties, the contents of any document, communication or information whatsoever, which relates to, and which has come to that person's knowledge in the course of that person's duties under this Act.

Prohibition of publication of, or disclosure of information to unauthorised persons

(2) A person who contravenes sub-paragraph (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(3) A person who, having information which to the knowledge of that person has been published or disclosed in contravention of sub-paragraph (1), unlawfully publishes or communicates the information to any other person, commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Immunity of
member and
staff

7. An action or other proceeding shall not lie or be instituted against a member of the Council or a committee of the Council, or a member of staff of the Council, for or in respect of any act or thing done or omitted to be done in good faith in the exercise or performance, or purported exercise or performance, of any of the powers, functions or duties conferred under this Act.

PART II

FINANCIAL PROVISIONS

8. (1) The funds of the Institute shall consist of such moneys as may—

- (a) be appropriated by Parliament;
- (b) be paid to the Institute by way of fees, levy, grants or donations; or
- (c) vest in or accrue to the Institute.

(2) The Institute may—

- (a) accept moneys by way of grants or donations, subject to the approval of the Minister, from any source outside Zambia;
- (b) raise by way of loans or otherwise, moneys as the Institute may require for the discharge of the Institute's functions; or
- (c) in accordance with the regulations made under this Act, charge and collect fees for services provided by the Institute.

(3) There shall be paid from the funds of the Institute—

- (a) the salaries, allowances and loans of members of staff of the Institute;
- (b) reasonable travelling, transport and subsistence allowances for members of the Council, or any committee thereof, when engaged in the business of the Institute, at rates as the Council may, with the approval of the Minister, determine; and
- (c) any other expenses incurred by the Council, or any committee thereof, in the performance of the Institute's functions.

(4) The Council may invest, in such manner as the Council thinks fit, funds that the Institute shall not immediately require for the performance of the Institute's functions.

- (5) The Council may use the funds referred to in sub-paragraph (4) to establish a Fund to—
- (a) educate planners and students of planning in the planning profession; and
 - (b) do any other thing necessary to carry out the objects of the Fund.

(6) The provisions of paragraph 11 shall apply to the Fund.

10. The financial year of the Institute shall be the period of twelve months ending on 31st December in each year. Financial year

11. (1) The Institute shall cause to be kept proper books of accounts and other records relating to the Institute's accounts. Accounts and audit

(2) The accounts of the Institute for each financial year shall be audited by the Auditor-General or such independent auditors as the Auditor-General may approve.

(3) The Auditor-General's fees shall be paid by the Institute.

12. (1) As soon as practicable, but not later than ninety days after the end of the financial year, the Institute shall submit to the Minister a report concerning its activities during the financial year. Annual report

(2) The report referred to in subparagraph (1) shall include information on the financial affairs of the Institute and there shall be appended to the report—

- (a) an audited balance sheet;
- (b) an audited statement of income and expenditure; and
- (c) such other information as the Minister may require.

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subparagraph (1), lay the report before the National Assembly.
