



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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GOVERNMENT NOTICE

No. 185 Promulgation of Town and Regional Planners Act, 1996 (Act 9 of 1996), of the Parliament

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 185

1996

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 9 of 1996: Town and Regional Planners Act, 1996.

**TOWN AND REGIONAL PLANNERS
ACT, 1996****ACT**

To establish a Namibian Council for Town and Regional Planners; to provide for the registration of town and regional planners and town and regional planners in training; and to provide for matters connected therewith.

(Signed by the President on 1 July 1996)

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BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:-

PART I**Preliminary provisions****Definitions**

1. In this Act, unless the context indicates otherwise -

"Council" means the Namibian Council for Town and Regional Planners established by section 2;

"financial year" means a year ending on 31 March;

"institute" means any association of town and regional planners and town and regional planners in training recognised as a town and regional planners' institute under section 9(1)(w);

"Minister" means the Minister of Regional and Local Government and Housing;

"officer" means a person appointed or designated by the Council under section 9(1)(a)(ii);

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"prescribe" means prescribed by regulation;

"register", when used as a noun, means the register referred to in section 9(2);

"registrar" means the person appointed as registrar under section 9(1)(a)(i);

"staff member" means a staff member as defined in section 1(1) of the Public Service Act, 1995 (Act 13 of 1995);

"this Act" includes regulations made thereunder;

"town and regional planner" means a person registered as a town and regional planner in terms of section 15;

"town and regional planner in training" means a person registered as a town and regional planner in training in terms of section 16.

PART II**The Namibian Council for Town and Regional Planners****Establishment of Namibian Council for Town and Regional Planners**

2. There is hereby established a body corporate to be known as the Namibian Council for Town and Regional Planners.

Constitution of Council

3. (1) The Council shall consist of the following members, namely -

- (a) four town and regional planners nominated by -
 - (i) if only one institute exists, such institute; or
 - (ii) if more than one institute exists, such institutes, subject thereto that the number of town and regional planners nominated by each institute shall be calculated proportionately in the same relation as the number of members of such institute bears to all members of all institutes,

and who shall be appointed by the Minister; and

- (b) one staff member who shall be designated by the Minister from among persons in the full-time employment of the Public Service.

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(2) Prior to the first occasion on which a nomination of a member referred to in paragraph (a) of subsection (1) is to be made, and on each later occasion when an office of a member becomes vacant, the Minister shall in writing request the institutes to nominate within a specified period, being not less than 60 days, a person or persons for appointment to the Council.

(3) If a nomination is not received by the Minister within the period requested, the Minister may appoint any suitable person who holds the necessary qualifications to be a member of the Council, and any person appointed under this subsection shall hold office as if nominated in accordance with subsection (2).

Persons disqualified from being members of Council

4. No person shall be appointed as a member of the Council -
- (a) if he or she is an unrehabilitated insolvent;
 - (b) if he or she has, at any time during the period of 10 years preceding his or her appointment, been convicted of an offence and has been sentenced therefor to a term of imprisonment without the option of a fine;
 - (c) if he or she has on account of improper conduct been removed from an office of trust; or
 - (d) if he or she has, in terms of the provisions of this Act, been found guilty by the Council of improper conduct.

Vacating of office by members of Council

5. A member of the Council shall vacate his or her office if he or she -
- (a) becomes subject to any disqualification contemplated in paragraph (a), (c) or (d) of section 4;
 - (b) is convicted of an offence and is sentenced therefor to a term of imprisonment without the option of a fine;
 - (c) resigns by written notice addressed to the registrar;
 - (d) is detained as a mentally ill person under the provisions of any law;
 - (e) has, without the leave of the Council, been absent from more than two consecutive meetings of the Council;
 - (f) is removed from the Council in the public interest by the Minister after consultation with the Council; or

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- (g) was designated under section 3(1)(b) and ceases to be in the full-time employment of the Public Service, or if the Minister terminates his or her designation.

Tenure of office of members and filling of vacancies

6. (1) A member of the Council appointed in terms of section 3(1)(a) shall be appointed for a period of three years, and may, after the expiration of the period for which he or she was appointed, continue to hold office for a further period, not exceeding three months, until his or her successor has been appointed.

(2) If a member of the Council dies or vacates his or her office before the expiration of the period for which he or she was appointed, the Minister may, subject to section 4, appoint a suitable person to fill the vacancy until a person has been appointed as a member in accordance with section 3.

(3) Any member of the Council whose period of office has expired, shall be eligible for reappointment.

Meetings of Council

7. (1) The first meeting of the Council shall be held at such time and place as the Minister may determine, and thereafter meetings of the Council shall be held at such times and places as the Council may determine.

(2) Three members of the Council shall form a quorum for any meeting thereof.

(3) The decision of a majority of the members of the Council present at a meeting of the Council shall constitute a decision of the Council and, in the event of an equality of votes on any matter, the person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

(4) No decision taken by the Council or act performed under the authority of the Council, shall be invalid by reason only of a vacancy on the Council or the fact that a person who was not entitled to sit as a member of the Council sat as a member when the decision was taken or the act was authorized, if it was taken or authorized by the requisite majority of the members of the Council who were present at the time and entitled to sit as members.

(5) The secretary of the Council shall keep minutes of the proceedings at meetings of the Council.

Chairperson and vice-chairperson of Council

8. (1) At the first meeting of every newly constituted Council and thereafter as the occasion arises, the members of the Council shall from among the members referred to in paragraph (a) of subsection (1) of section 3 elect a chairperson and vice-chairperson, and the chairperson and vice-chairperson shall hold office for such period, being not less than 12 months, as the Council may

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determine at the time of their election.

(2) If the chairperson or vice-chairperson of the Council dies or vacates his or her office before the expiration of the period contemplated in subsection (1), the members of the Council shall elect from among the members referred to in paragraph (a) of subsection (1) of section 3 a chairperson or vice-chairperson, as the case may be, and the member so elected shall act as chairperson or vice-chairperson for the unexpired part of the period of office for which his or her predecessor was elected.

(3) The vice-chairperson may, if the chairperson is for any reason absent or unable to perform his or her functions, perform all the functions of the chairperson.

(4) If both the chairperson and the vice-chairperson are absent from a meeting of the Council or unable to preside, the members present shall elect one from their number to preside at that meeting and the person so elected to preside shall, during that meeting and until the chairperson or vice-chairperson resumes duty, perform all the functions and exercise all the powers of the chairperson.

Powers of Council

9. (1) The Council shall have the power -
- (a) to appoint, or designate from among its members -
 - (i) a registrar who shall also act as secretary of the Council and committees of the Council; and
 - (ii) such other persons as the Council may deem necessary for the performance of its functions and to determine their duties and responsibilities;
 - (b) subject to the provisions of this Act, to determine the procedure at meetings of the Council or any committee of the Council and the manner in which minutes of such meetings shall be kept;
 - (c) to consider and give its final decision on recommendations of a committee of the Council;
 - (d) to, from its funds, acquire or hire such movable or immovable property as it may consider necessary for the effective performance of its functions and maintain, let, sell, or in any other manner dispose of, goods so acquired or hired;
 - (e) to enter into contracts and decide upon the manner in which contracts shall be entered into on behalf of the Council;
 - (f) to collect the funds of the Council and -

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- (i) to invest such funds or any part thereof by means of a fixed deposit with any banking institution or building society registered in terms of any law, or the Post Office Savings Bank, or in stock issued by any government or any public corporation established under any law;
- (ii) to deposit such funds or any part thereof in a savings account with such banking institution or building society or with the Post Office Savings Bank; or
- (iii) to deposit such funds or any part thereof in a current account with such a banking institution;
- (g) with the approval of the Minister, to determine the remuneration and allowances payable from the funds of the Council to members and officers of the Council, the registrar and members of a committee of the Council, who are not in the full-time employment of the Public Service;
- (h) to determine the manner in which an applicant shall apply for registration as a town and regional planner or town and regional planner in training, the fees which shall be payable to the Council in respect of any such registration and the annual fees which shall be payable to the Council by a town and regional planner or a town and regional planner in training and to determine which part of such annual fees shall be payable in respect of any part of a year and the date on which such annual fees or part thereof shall become due and payable;
- (i) having regard to all the circumstances of a particular case, to grant remission of the annual fees or any part thereof payable by a person in terms of paragraph (h);
- (j) to make recommendations to the Minister regarding qualifications for registration contemplated in section 14;
- (k) subject to the provisions of this Act, to consider and decide upon any application for registration as a town and regional planner or town and regional planner in training;
- (l) in so far as it has not been prescribed, to decide upon the form of the register and certificates to be kept, maintained, or issued in terms of this Act, the reviewing thereof and the manner in which alterations thereto may be effected;
- (m) to recommend to the Minister the minimum fees to be charged by town and regional planners or town and regional planners in training for their professional services;

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- (n) to recommend to the Minister the kinds of work of a town and regional planning nature which shall be reserved for town and regional planners;
- (o) to determine the procedure at enquiries held in terms of section 23 in so far as such proceedings have not been determined under this Act;
- (p) to take any steps which it may consider expedient for the protection of the public in their dealings with town and regional planners or town and regional planners in training, for the maintenance of the integrity of, the enhancement of the status of and the improvement of the standard of services rendered by town and regional planners and town and regional planners in training and for the improvement of the professional qualifications of town and regional planners or town and regional planners in training;
- (q) to encourage research into matters relating to the town and regional planners' profession, to give advice or render financial or other assistance to any educational institution, institute or examining body with regard to educational facilities for and the training and education of prospective town and regional planners and to determine educational requirements and qualifications of training officers;
- (r) to finance, print, distribute and administer the publication of, and generally to take any steps necessary to publish, any publication relating to the town and regional planners' profession and cognate matters;
- (s) to arrange with a registered insurer as defined in section 1(1) of the Insurance Act, 1943 (Act 27 of 1943), for the indemnification by means of insurance of town and regional planners and town and regional planners in training against claims arising from the performance of their functions as town and regional planners or town and regional planners in training;
- (t) to arrange with a registered insurer referred to in paragraph (s) for the provision of cover by means of insurance -
 - (i) for a member, an officer, or the registrar of the Council in respect of any bodily injury, disablement or death resulting solely and directly from an accident occurring in the course of the performance by such a member or officer of his or her functions in terms of this Act;
 - (ii) for the Council against any loss, damage, risk, or liability which it may suffer or incur, including cover in respect of any loss or damage caused to the Council by any person in its employment and in respect of all goods under the control of the Council;

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- (u) from time to time to raise money by way of loans for the purpose of effectively performing such of its functions as the Council may determine and to mortgage any of its immovable goods as security for such loans;
- (v) with a view to promote any matter relating to the town and regional planners' profession, to lend money against such security as the Council may deem adequate;
- (w)
 - (i) to determine the requirements with which an association of town and regional planners and town and regional planners in training shall comply in order to qualify for recognition by the Council as a town and regional planners' institute for the purposes of this Act, and the circumstances in which such recognition shall lapse after an application in connection therewith has been granted;
 - (ii) to consider any application for such recognition and recognise any such association which complies with the requirements determined by the Council as an institute;
- (x) to make recommendations to the Minister with regard to any regulations to be made under section 25;
- (y) to advise the Minister on matters relating to the town and regional planners' profession and cognate matters; and
- (z) generally, to take all such measures as it may deem necessary for the proper performance of its functions or to achieve the objects of this Act.

(2) Subject to the provisions of this Act, the Council shall keep and maintain a register of town and regional planners and town and regional planners in training in which the name of every town and regional planner or town and regional planner in training shall be entered into, and such register shall at all reasonable times be open to inspection by any member of the public upon payment of the fees determined by the Council.

(3) Any power conferred, function assigned, or duty imposed upon the registrar under this Act may be exercised, performed, or discharged by the registrar personally or by an officer acting under delegation, direction and control of the registrar.

Committees of Council

10. (1) The Council may establish committees to assist it in the performance of its functions and may appoint such of its members and such town and regional planners or other persons who are not members of the Council as it may deem fit, to be members of any such committee.

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(2) One of the members of the Council shall be designated by the Council as chairperson of the committee.

(3) The Council may delegate to a committee so established such of its powers as it may deem fit, but shall not be divested of any power which it has so delegated to a committee and may amend or withdraw any decision of such a committee.

(4) Any reference in this Act to the Council or to the chairperson of the Council, in relation to the exercise of any power which the Council has delegated to a committee, shall be construed as including a reference to that committee or to the chairperson of that committee, as the case may be.

(5) The provisions of section 7(4) shall apply *mutatis mutandis* in respect of a committee of the Council

Reports to Minister

11. (1) (a) The Council shall in each year, within six months after the close of its financial year, submit to the Minister a report regarding its activities during that financial year, together with a copy of the audited statement of income and expenditure and the balance sheet referred to in section 12(3)(a) in respect of that financial year.

(b) The Minister shall within six months after having received the report and financial statements referred to in paragraph (a), submit them to the National Assembly.

(2) The chairperson of the Council shall from time to time submit to the Minister reports regarding matters relating to the activities of the Council which in the opinion of the Council should be brought to the Minister's attention.

(3) The Council shall at the request of the Minister furnish him or her with advice on matters in connection with the town and regional planners' profession or cognate matters.

Funds of Council and keeping and auditing of accounts

12. (1) The funds of the Council shall consist of -

(a) fees received by it in terms of section 9(1)(h);

(b) money raised by it in terms of section 9(1)(u);

(c) money which the Minister may, with the concurrence of the Minister of Finance, advance to the Council out of money appropriated by Parliament and which the Minister may deem necessary in order to enable the Council to perform its functions;

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- (d) donations or contributions which it may receive from any person, institution, government, administration, or any other service;
 - (e) moneys received by the Council by way of costs or fines under section 22;
 - (f) interest on investments made by it; and
 - (g) such other amounts as may become payable to it in terms of this Act.
- (2) The Council shall cause full and correct account to be kept of all moneys received or expended by it.
- (3) (a) The Council shall cause to be prepared in each year a statement of its income and expenditure during its last preceding financial year and a balance sheet showing its financial position at the end of that financial year and shall, after such statement and balance sheet have been audited by a person appointed by the Council, forward copies thereof to every member of the Council and cause a copy thereof to be open for inspection at its office by any town and regional planner and town and regional planner in training.
- (b) A person appointed under paragraph (a) shall be a person who is registered in terms of the Public Accountants' and Auditors' Act, 1951 (Act 51 of 1951), as an accountant or auditor.

PART III**Reservations, minimum fees, qualifications and registration****Reservation of certain kinds of work and minimum fees**

13. (1) The Minister may, on recommendation of the Council -
- (a) prescribe the kinds of work of a town and regional planning nature which shall be reserved for town and regional planners;
 - (b) by notice in the *Gazette* determine the minimum fees which shall be charged by a town and regional planner or town and regional planner in training for his or her professional services: Provided that the Minister may, on recommendation of the Council, in writing exempt a town and regional planner from charging such minimum fees.
- (2) The Minister shall, prior to prescribing any reservation of work in terms of subsection (1)(a), by notice in the *Gazette* -

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- (a) publish the proposed reservations;
- (b) invite any person to submit any objections to or representations on the proposed reservations; and
- (c) state the date on which the proposed reservations will come into force, which shall be a date not earlier than four weeks as from the date of that notice.

(3) The Minister shall transmit any objections or representations received by virtue of subsection (2) to the Council.

(4) If the Minister, on recommendation of the Council, decides to amend any of the proposed reservations contemplated in subsection (2) it will not be necessary to publish such amendments before prescribing the reservation of work in question.

(5) Any reservation of work made in terms of this section may provide for the exclusion therefrom of work done under specified circumstances or for specified purposes or by or for specified persons or categories of persons or within or outside specified areas.

Qualifications for registration

14. (1) For the purposes of registration of town and regional planners or town and regional planners in training the Minister may, on recommendation of the Council, prescribe -

- (a) the course of instruction to be undertaken and examinations or tests to be passed by applicants;
- (b) the degrees, diplomas, certificates, or other credentials to be held from educational or training institutions;
- (c) the educational or training institutes at which the courses, training, examination, or tests are to be undertaken; and
- (d) any other condition regarding qualifications the Minister may deem necessary for registration under this Act.

(2) Where the Council recommends the recognition of a degree, diploma, certificate, or other credential awarded by an educational or a training institution outside Namibia, the Council shall first satisfy itself that -

- (a) such degree, diploma, certificate, or other credential entitles the holder thereof to practise a corresponding profession or occupation in the country in which such institution is situated; and
- (b) the possession of such degree, diploma, certificate, or other credential indicates a standard of professional training which pro-

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vides the holder thereof with sufficient knowledge to practise as a town and regional planner or town and regional planner in training, as the case may be, under this Act.

Registration of town and regional planners

15. (1) Any person who desires to be registered as a town and regional planner shall lodge with the Council, in the manner determined by it, an application in writing for such registration, and such application shall be accompanied by the registration fee as determined by the Council under section 9(1)(h) and such information as the Council may require.

(2) If after consideration of any such application the Council is satisfied that the applicant -

- (a) holds the prescribed qualifications;
- (b) has, for a period of at least two years after having obtained such qualifications performed town and regional planning work which in the opinion of the Council is of sufficient variety and of a satisfactory nature and standard, and has performed such work -
 - (i) subject to subsection (10), in Namibia, under the direction and control of a town and regional planner; or
 - (ii) outside Namibia, under the direction and control of any other person who has passed an examination recognised by the Council for the purposes of this subparagraph, and who has been engaged primarily in the performance of the kinds of work prescribed under section 13(1)(a);
- (c) with due regard to the provisions of this Act, is a suitable person for registration as a town and regional planner,

the Council shall, subject to the provisions of subsection (6), register the applicant as a town and regional planner and issue to him or her a certificate of registration to that effect.

(3) Whenever any person who is registered as a town and regional planner in training in terms of section 16 complies with all the requirements of subsection (2), the Council shall on application by such person in terms of subsection (1) to be registered as a town and regional planner, cancel his or her registration as a town and regional planner in training and register him or her in accordance with the provisions of subsection (2) as a town and regional planner

(4) Any person who at the commencement of this Act is a corporate member in terms of the constitution of the Namibian Institute of Town and Regional Planners, shall be deemed, until the expiry of the period within which he or she is in terms of subsection (5) required to apply to be registered as a town and regional planner under this Act or, in the case of a person who has so applied, until

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a certificate of registration is issued to him or her in terms of that subsection, to be registered as a town and regional planner.

(5) A person referred to in subsection (4) shall within six months after the date of commencement of this Act, or such further period as the Council may in any particular case allow, apply in the manner determined by the Council to be registered as a town and regional planner and the Council shall notwithstanding any provision to the contrary, upon payment of the registration fee as determined by the Council under section 9(1)(h), register such person as a town and regional planner and issue to him or her a certificate of registration to that effect.

(6) The Council shall not register any person as a town and regional planner in terms of this section if he or she -

- (a) has at any time been removed from an office of trust on account of improper conduct;
- (b) has, at any time during the period of 10 years preceding his or her application, been convicted of an offence of which dishonesty is an element and sentenced in respect thereof to imprisonment without the option of a fine or to a fine exceeding N\$2 000, unless the Council rules that such offence was of a nature which does not imply that he or she is an unsuitable person for registration as a town and regional planner;
- (c) is detained as a mentally ill person under the provisions of any law; or
- (d) is disqualified from registration or his or her name has been removed from the register by virtue of any punishment imposed under section 22.

(7) The Council shall cancel the registration as a town and regional planner of any person if -

- (a) such person subsequent to his or her registration becomes subject to any of the disqualifications specified in subsection (6)(a) or (c);
- (b) such person is convicted of an offence of which dishonesty is an element and is sentenced in respect thereof to imprisonment without the option of a fine or to a fine exceeding N\$2 000, unless the Council rules that such offence is of a nature which does not imply that he or she is an unsuitable person to be registered as a town and regional planner; or
- (c) such person's registration was made in error or on information subsequently proved to be false.

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(8) Notwithstanding the provisions of subsections (6) and (7), the Council may -

- (a) in respect of any person who is subject to a disqualification referred to in subsections (6) and (7)(a) and (b); or
- (b) in the circumstances contemplated in paragraph (c) of subsection (7),

with due regard to all relevant considerations and if the registration of such person is justified in the interest of fairness towards him or her and in the interest of the community, and subject to such conditions as the Council may determine, register or refrain from cancelling the registration of such person, as the case may be, as a town and regional planner.

(9) Subject to section 18, the registration of any person as a town and regional planner shall lapse if such a person fails to pay an annual fee or any part thereof determined under section 9(1)(h) and payable by him or her, within 90 days after such fee or part thereof becomes due or within such further period as the Council may in any particular case allow, whether before or after the expiration of the said 90 days.

(10) A person who, prior to the commencement of this Act, was a corporate member in terms of the constitution of the Namibian Institute of Town and Regional Planners, shall, for the purpose of subsection (2), be deemed to have been a town and regional planner.

(11) A person who is registered as a town and regional planner may describe himself or herself as a town and regional planner and shall be entitled to indicate his or her status or to make it known by using for all purposes the title TRP after his or her name.

Registration of town and regional planners in training

16. (1) Any person who holds the prescribed qualifications but does not comply with the requirements of paragraph (b) of subsection (2) of section 15, may apply to the Council to be registered as a town and regional planner in training.

(2) An application under subsection (1) shall be lodged in writing with the Council, in the manner determined by it, and such application shall be accompanied by the registration fee as determined by the Council under section 9(1)(h) and such information as the Council may require.

(3) If, after consideration of an application lodged under subsection (2), the Council is satisfied that the applicant complies with the requirements referred to in paragraph (a) of subsection (2) of section 15 and, with due regard to the provisions of this Act, is a suitable person for registration as a town and regional planner in training, the Council shall, subject thereto that the applicant is not disqualified from registration in terms of any of the disqualifications specified

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in subsection (6) of section 15, register the applicant as a town and regional planner in training and issue to him or her a certificate of registration to that effect on which the restrictions and conditions applicable to him or her as contemplated in subsection (4) are endorsed.

(4) A town and regional planner in training may perform the kinds of work reserved for town and regional planners under section 13(1)(a), subject to such restrictions and conditions as the Council may in each case determine, provided that such work shall only be performed under the personal supervision of a town and regional planner who shall be approved by the Council.

(5) Any person who at the commencement of this Act is a graduate member in terms of the constitution of the Namibian Institute of Town and Regional Planners, shall be deemed, until the expiration of the period within which he or she is in terms of subsection (6) required to apply to be registered as a town and regional planner in training under this Act, or in the case of a person who has so applied, until a certificate of registration is issued to him or her in terms of that subsection, to be registered as a town and regional planner in training.

(6) A person referred to in subsection (5) shall within six months after the date of commencement of this Act, or such further period as the Council may in any particular case allow, apply in the manner determined by the Council to be registered as a town and regional planner in training and the Council shall notwithstanding any provision to the contrary, upon payment of the registration fee as determined by the Council under section 9(1)(h), register such person as a town and regional planner in training and issue to him or her a certificate of registration to that effect on which the restrictions and conditions applicable to him or her as contemplated in subsection (4) are endorsed.

(7) The provisions of section 15(7), (8) and (9) shall *mutatis mutandis* apply in relation to the registration of a town and regional planner in training.

(8) In addition to any other grounds referred to in this section on which the registration of a town and regional planner in training shall lapse such registration shall also lapse if a town and regional planner in training for 90 or more consecutive days fails to perform work of a town and regional planning nature under the direction and control of a town and regional planner: Provided that the Council may condone such failure if it is satisfied that the failure was beyond the control of the person concerned.

(9) A person registered as a town and regional planner in training may describe himself or herself as such.

Removal from register and return of certificate of registration

17. (1) The registrar shall remove from the register the name of a town and regional planner or a town and regional planner in training in any of the following circumstances, namely -

(a) at the written request of that town and regional planner

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or town and regional planner in training but subject to the consent of the Council that his or her name be removed from the register;

- (b) on proof that the town and regional planner or town and regional planner in training is deceased;
- (c) where the registration of that town and regional planner or town and regional planner in training has been cancelled under section 15(7);
- (d) if the registration of that town and regional planner or town and regional planner in training has lapsed under section 15(9);
- (e) where the Council subsequent to an enquiry held under section 22 orders that the town and regional planner's or town and regional planner in training's registration be cancelled; or
- (f) in the case of a town and regional planner in training, if his or her registration has lapsed in terms of section 16(8).

(2) Any person whose name as a town and regional planner or a town and regional planner in training has been removed from the register in terms of subsection (1) shall within 30 days after receiving written notification from the registrar of such removal return to the registrar his or her certificate of registration.

(3) A person whose name has been removed from the register and who fails to return his or her certificate of registration within the period prescribed in subsection (2), shall be guilty of an offence and liable on conviction to a fine not exceeding N\$1 000.

(4) The removal of the name of a town and regional planner or town and regional planner in training from the register or the cancellation of his or her certificate of registration under this section shall not affect any civil, criminal, or disciplinary liability incurred by him or her prior to such removal or cancellation, including the liability for the payment of any outstanding annual fees.

Reinstatement to register

18. (1) A person whose name has been removed from the register may apply to the Council to have his or her name reinstated, upon showing good cause why he or she should be so reinstated, and upon payment of any outstanding annual fees.

(2) Upon receipt of an application for reinstatement, the Council shall consider each case on its own merits and may in its discretion -

- (a) grant the application and direct the registrar to reinstate the applicant's name to the register upon such terms and conditions

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as the Council may specify; or

(b) reject the application.

(3) Where the applicant's name is reinstated to the register under this section, he or she shall not be required to pay registration fees again.

Authorization to practise as a town and regional planner in Public Service

19. (1) Notwithstanding anything to the contrary in this Act or in any other law contained, but subject to the provisions of this section, the Minister may after consultation with the Council, upon an application in the manner and on submission of such information as the Minister may determine by any person who is not registered under the provisions of this Act as a town and regional planner, but who -

- (a) in terms of the laws of any country or state approved by the Minister for that purpose, is entitled to practise the profession of a town and regional planner without further examination in that country or state;
- (b) although such person is not entitled to practise as contemplated in paragraph (a), at any educational institution situated outside Namibia, obtained a qualification or received education in town and regional planning which in the opinion of the Minister indicates a satisfactory standard of professional education,

and complies with such further conditions or requirements as the Minister may determine, grant a written authority to such person to practise as a town and regional planner.

(2) Any person to whom a written authority has been granted under the provisions of subsection (1) -

- (a) shall only be entitled to practise as a town and regional planner -
 - (i) in the Public Service; and
 - (ii) for such period, and subject to such restrictions and conditions, including the condition that such person may only practise as a town and regional planner subject to such supervision as the Minister may determine and specify in such written authority;
- (b) shall, subject to any restriction or condition imposed in respect of such person under subparagraph (ii) of paragraph (a), be competent and entitled to perform any act falling within the scope of the profession of a town and regional planner and which act such person could have performed if he or she had been registered as such under the provisions of this Act.

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- (3) The Minister may, at his or her discretion -
 - (a) at any time amend or revoke any restriction or condition imposed under the provisions of subsection (2);
 - (b) at any time impose such further restrictions or conditions as he or she may determine;
 - (c) extent from time to time the period for which a written authority was granted under the provisions of subsection (1);
 - (d) at any time suspend, for such period and subject to such conditions as he or she may determine, any written authority referred to in paragraph (c); or
 - (e) at any time withdraw any written authority referred to in paragraph (c).

Prohibition of unregistered persons to perform certain kinds of work**20.** Subject to section 13(5) -

- (a) any person other than a town and regional planner or town and regional planner in training who -
 - (i) for gain performs any kind of work reserved for town and regional planners under section 13(1)(a);
 - (ii) pretends to be or by any means whatsoever holds himself or herself out or allows himself or herself to be held out as a town and regional planner or town and regional planner in training or uses the name of town and regional planner or town and regional planner in training or uses any name, title, description, or symbol indicating, or calculated to lead persons to infer, that he or she is registered as a town and regional planner or town or regional planner in training in terms of this Act;
- (b) any company or other juristic person which -
 - (i) for gain performs or causes to be performed any kind of work reserved for town and regional planners under section 13(1)(a); or
 - (ii) holds itself out or allows itself to be held out as a company or other juristic person performing any kind of work reserved for town and regional planners or uses any name, title, description, or symbol indicating, or calculated to lead persons to infer, that it performs any kind of work reserved for town and regional planners,

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shall be guilty of an offence and liable on conviction to a fine not exceeding N\$2 000.

PART IV**Disciplinary provisions****Improper conduct**

21. (1) A town and regional planner or town and regional planner in training shall be guilty of improper conduct if he or she -

- (a) except with the consent of the Council, entrusts any person other than a town and regional planner or a town and regional planner in training with work of a kind reserved under section 13(1)(a) and which is not excluded under subsection (5) of that section;
- (b) accepts any undue remuneration for the performance of or the failure to perform work of a kind reserved under section 13(1)(a) from any person other than his or her client or employer;
- (c) performs work of a kind reserved under section 13(1)(a) during any period in respect of which he or she has been suspended under this Act;
- (d) in the case of a town and regional planner in training, contravenes or fails to comply with any condition or restriction applicable to him or her in terms of section 16(4);
- (e) commits an offence in carrying on his or her profession as a town and regional planner or a town and regional planner in training; or
- (f) contravenes or fails to comply with any rule or requirement prescribed under section 25(d).

(2) The acquittal or conviction of a town and regional planner or a town and regional planner in training by a court of law upon a criminal charge shall not be a bar to proceedings against him or her under this Act on a charge of improper conduct, even if the facts set forth in the charge of improper conduct would, if proved, constitute the offence set forth in the criminal charge on which he or she was so acquitted or convicted or of any other offence of which he or she might have been convicted at his or her trial on the said criminal charge.

(3) If the improper conduct with which a town and regional planner or town and regional planner in training is charged amounts to an offence of which he or she has been convicted by a court of law, a certified copy of the record of his or her trial and conviction by that court shall, upon the identification of such town and regional planner or town and regional planner in training as the person referred to in the record, be sufficient proof of the commission by him or her of such

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offence, unless the conviction has been set aside by a superior court: Provided that it shall be competent for the person charged to adduce evidence that he or she was in fact wrongly convicted.

Disciplinary powers of Council

22. (1) The Council may -
- (a) in the prescribed manner, enquire into cases of improper conduct which a person who is or was at any time registered in terms of this Act as a town and regional planner or as a town and regional planner in training is alleged to have been guilty of while so registered; and
 - (b) if a person is found guilty at an enquiry of improper conduct -
 - (i) impose upon him or her a fine not exceeding N\$1 000;
 - (ii) cancel his or her registration and remove his or her name from the register;
 - (iii) reprimand him or her;
 - (iv) suspend him or her from practising as a town and regional planner or a town and regional planner in training and determine the period of such suspension;
 - (v) recover from him or her the costs incurred by the Council in connection with such enquiry.

(2) The Council may, on such condition as it may determine, mitigate any punishment imposed under subsection (1).

(3) In the case of alleged improper conduct which forms, or which the Council has reason to believe is likely to form, the subject of criminal or civil proceedings in a court of law, the Council may postpone the enquiry until such proceedings have been determined.

(4) Any amount payable under subsection (1)(b)(i) or (v) shall be recovered by the Council from the person concerned, and an amount so recovered shall be paid into the funds of the Council.

Enquiry by Council

23. (1) For the purpose of any enquiry under section 22 the Council may -

- (a) summon any person who in its opinion may be able to give material information concerning the subject of the enquiry or who is believed to have in his or her possession or custody or under his

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or her control any book, document, or thing which relates to the subject of the enquiry, to appear before it at a time and place specified in the summons to be examined or to produce that book, document, or thing, and may retain for examination any book, document, or thing so produced;

- (b) call and by way of its chairperson administer an oath to, or accept an affirmation from, any person present at the enquiry who was or could have been summoned under paragraph (a) and examine him or her or require him or her to produce any book, document, or thing in his or her possession or custody or under his or her control;
- (c) appoint any person to advise and assist the Council at such enquiry on matters pertaining to law, procedure or evidence.

(2) A summons for the appearance before the Council of any person or for the production of any book, document, or thing, shall be in the form determined by the Council, shall be signed by the chairperson of the Council or a person authorized thereto by the Council, and shall be served in such manner as the Council may determine.

(3) If any person who has been duly summoned under this section fails, without sufficient cause, to appear at the time and place specified in the summons or to remain in attendance until excused from further attendance by the chairperson of the Council, or if any person called under subsection (1)(b) refuses to be sworn or to be affirmed as a witness or fails without sufficient cause to answer fully and satisfactorily to the best of his or her knowledge and belief all questions lawfully put to him or her concerning the subject of the enquiry or to produce any book, document, or thing in his or her possession or custody or under his or her control which he or she has been required to produce, he or she shall be guilty of an offence: Provided that in connection with the examination of any such person or the production of any such book, document, or thing, the law relating to privilege, as applicable to a witness subpoenaed to give evidence or to produce any book, document, or thing before a court of law, shall apply.

(4) Any witness who, having been duly sworn or affirmed, gives a false answer to any question lawfully put to him or her or makes a false statement on any matter knowing such answer or statement to be false, shall be guilty of an offence.

(5) Any person who wilfully hinders the chairperson or any member or officer of the Council in the exercise of any power conferred upon him or her by or under this section, shall be guilty of an offence.

(6) A person whose conduct is being enquired into by the Council shall be informed of the nature of the complaint made against him or her and shall be entitled to appear by himself or herself or to be represented by another person duly authorized in writing thereto by him or her and to produce evidence, call and examine witnesses on his or her behalf and to cross-examine other witnesses.

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(7) The Council shall keep or cause to be kept a record of proceedings at an enquiry.

(8) Any person who is convicted of an offence under this section shall be liable to a fine not exceeding N\$1 000.

Suspension of mentally ill town and regional planners and town and regional planners in training

24. (1) Whenever it appears to the Council from information on oath that a town and regional planner or town and regional planner in training has become mentally ill to such an extent that it would be contrary to the public interest to allow him or her to continue to practise as a town and regional planner or town and regional planner in training, the Council may in its discretion, hold an enquiry *mutatis mutandis* in accordance with the provisions of section 23 in respect of such town and regional planner or town and regional planner in training.

(2) If the Council finds that such town and regional planner or town and regional planner in training has so become mentally ill, the Council may suspend him or her for a specified period from practising as a town and regional planner.

(3) The Council may extend for any period determined by it the period of operation of, or withdraw, any order made under this section.

PART V**General provisions****Regulations**

25. The Minister may, on recommendation of the Council, make regulations -

- (a) relating to any matter which is required or permitted to be prescribed by regulation under this Act;
- (b) relating to the form of the register of town and regional planners and town and regional planners in training, and certificates to be kept, maintained or issued, the reviewing thereof and the manner in which alterations thereto may be effected;
- (c) relating to the qualifications for registration as a town and regional planner or town and regional planner in training;
- (d) prescribing rules, including rules of conduct, and requirements with which town and regional planners and town and regional planners in training shall comply in the carrying on of their profession;

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- (e) prescribing the manner in which an enquiry into allegations of improper conduct by a town and regional planner or a town and regional planner in training shall be held;
- (f) prescribing the form and contents of, and the other applicable requirements in connection with town and regional reports, plans, or documents; and
- (g) prescribing, generally, any matter which he or she may consider necessary or expedient to prescribe in order that the objects of this Act may be achieved.

Procedure and evidence

26. (1) The register shall be *prima facie* evidence of all matters required by or under this Act to be noted therein.

(2) A certificate purporting to be signed by the registrar to the effect that an entry has or has not been made in the register or that any other thing authorized by this Act has or has not been done, shall be *prima facie* evidence of the matters specified in that certificate.

(3) A copy of an entry in the register or of a document in the custody of the registrar, or of an extract from the register or from any such document, purporting to be certified by the registrar, shall be admitted as evidence in all courts of law without further proof of production of the original.

Rectification of errors

27. Whenever anything which is required to be done or performed in terms of this Act on or before a specified day or at a specified time or during a specified period, has not been so done or performed, the Minister may, if he or she is satisfied that such failure was due to error or oversight, and that it is in the interests of the town and regional planners' profession to do so, authorize such thing to be done or performed on or before any other day or at any time or during any other period, as he or she may direct, and anything so done or performed shall be of full force and effect and shall be deemed to have been lawfully done or performed in accordance with the provisions of this Act.

Liability of Council

28. No civil or criminal proceedings shall be instituted against the Council or any member or officer thereof in respect of any act done or duty performed in good faith in accordance with the provisions of section 22, 23 or 24.

Delegation of powers

29. (1) Except for the powers conferred upon him or her by sections 13 and 25, the Minister may in writing delegate to any staff member in the Ministry of Regional and Local Government and Housing any or all the powers conferred upon him or her by this Act.

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(2) Any person to whom any power has been delegated under subsection (1), shall exercise that power subject to the directions of the Minister

(3) The delegation of any power shall not prevent the exercise of that power by the Minister himself or herself, and the Minister may at any time revoke in writing any such delegation.

Short title and commencement

Date: 20/7/98 **30.** This Act shall be called the Town and Regional Planners Act, 1996, and shall come into operation on a date determined by the Minister by notice in the *Gazette*.
GN 170/1998
