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The following Act was passed by Parliament on 11 September 2017 and assented to by the President on 3 October 2017:—

REPUBLIC OF SINGAPORE

No. 36 of 2017.

I assent.

HALIMAH YACOB,
President.
3 October 2017.

(LS)

An Act to amend the Professional Engineers Act (Chapter 253 of the 1992 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Professional Engineers (Amendment) Act 2017 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

Amendment of long title

2. The long title to the Professional Engineers Act (called in this Act the principal Act) is amended by deleting the words “professional engineers and to regulate corporations, partnerships and limited liability partnerships” and substituting the words “persons that carry out professional engineering work, and to regulate corporations, partnerships, limited liability partnerships and limited partnerships”.

Amendment of section 2

3. Section 2 of the principal Act is amended —

(a) by inserting, immediately after the definition of “Disciplinary Committee”, the following definition:

““foreign engineer” means any person who is authorised to carry out professional engineering work in a country or territory outside Singapore under the law of that country or territory;”;

(b) by inserting, immediately after the definition of “licensed”, the following definition:

““licensed professional engineering practice” means —

(a) a limited corporation licensed under section 20(1);

(b) an unlimited corporation licensed under section 20(2);

(c) a partnership licensed under section 20(3); or

(d) a limited liability partnership licensed under section 20(4);”;

(c) by inserting, immediately after the definition of “limited liability partnership”, the following definition:

“ “limited partnership” means a limited partnership registered under the Limited Partnerships Act (Cap. 163B);”;

(d) by inserting, immediately after the definition of “nominee”, the following definition:

“ “partnership” includes a limited partnership;”;

(e) by inserting, immediately after the definition of “practising certificate”, the following definition:

“ “prescribed branch of professional engineering work” means professional engineering work in any of the following branches of engineering:

(a) chemical engineering;

(b) civil engineering;

(c) electrical engineering;

(d) mechanical engineering;

(e) such other branches of engineering as may be prescribed;”;

(f) by inserting, immediately after the definition of “rules”, the following definition:

“ “specialist professional engineer” means a person registered under section 15A as a specialist professional engineer;”.

Amendment of section 4

4. Section 4 of the principal Act is amended —

(a) by deleting the words “for not more than 2 consecutive terms” in subsection (7); and

(b) by inserting, immediately after subsection (7), the following subsection:

“(7A) However, a person is ineligible for re-election to office as a member under subsection (2)(c) if the re-election would result in the person holding office as a member for 3 consecutive terms.”.

Amendment of section 4B

5. Section 4B of the principal Act is amended —

(a) by deleting the words “for not more than 2 consecutive terms” in subsection (2); and

(b) by inserting, immediately after subsection (2), the following subsection:

“(3) However, a person is ineligible for re-election as the President under subsection (1) if the re-election would result in the person holding office as the President for 3 consecutive terms.”.

Amendment of section 6

6. Section 6 of the principal Act is amended —

(a) by deleting paragraph (a) and substituting the following paragraph:

“(a) to keep and maintain every register mentioned in section 8(1);”;

(b) by deleting paragraph (e) and substituting the following paragraph:

“(e) to promote learning and education in connection with engineering and the development of professional engineering, either alone or in conjunction with any other person;”;

- (c) by inserting, immediately after the words “professional engineering services” in paragraph (g), the words “relating to any of the prescribed branches of professional engineering work”.

Amendment of section 7

7. Section 7(1) of the principal Act is amended by deleting the words “or allied professionals” and substituting the words “, allied professionals or such other persons”.

Amendment of section 8

8. Section 8(1) of the principal Act is amended —

- (a) by deleting the word “and” at the end of paragraph (c); and
(b) by deleting paragraph (d) and substituting the following paragraphs:

“(d) a register of licensees containing the names of all licensed professional engineering practices and such other particulars as may be determined by the Board; and

(e) a register containing the names and any other particulars as may be determined by the Board, of all foreign engineers authorised under section 10(1)(c).”.

Amendment of section 10

9. Section 10 of the principal Act is amended —

- (a) by deleting subsection (1) and substituting the following subsection:

“(1) Subject to the provisions of this Act, a person must not, in Singapore, engage in any of the prescribed branches of professional engineering work, or draw or prepare any plan, sketch, drawing, design, specification or other document relating to any of the prescribed branches of professional engineering work, unless the person —

- (a) is a registered professional engineer who has in force a practising certificate authorising him to engage in that prescribed branch of professional engineering work;
 - (b) is working under the direction or supervision of a person mentioned in paragraph (a);
 - (c) being a foreign engineer, is authorised by the Board to engage in such professional engineering work in collaboration with a person mentioned in paragraph (a);
 - (d) is a licensed professional engineering practice licensed to supply professional engineering services relating to that prescribed branch of professional engineering work; or
 - (e) is a partnership consisting wholly of registered professional engineers —
 - (i) each of whom has in force a practising certificate; and
 - (ii) one or more of whom is authorised to engage in that prescribed branch of professional engineering work.”;
- (b) by inserting, immediately after the words “The Board may” in subsection (1A), the words “, upon the payment of the prescribed fee,”;
- (c) by inserting, immediately after the words “relating to any” in subsection (2)(a) and (b), the words “of the prescribed branches of”;
- (d) by deleting subsections (4), (5), (5A), (6), (7) and (8) and substituting the following subsections:

“(4) Subject to the provisions of this Act, a person must not advertise or hold himself out, or conduct himself in any way or by any means, as a person who is authorised to supply in Singapore, professional engineering services relating to any of the prescribed branches of professional engineering work, unless the person is —

- (a) a registered professional engineer who has in force a practising certificate authorising him to engage in that prescribed branch of professional engineering work to which those services relate;
- (b) a licensed professional engineering practice licensed to supply professional engineering services relating to that prescribed branch of professional engineering work; or
- (c) a partnership consisting wholly of registered professional engineers —
 - (i) each of whom has in force a practising certificate; and
 - (ii) one or more of whom is authorised to engage in that prescribed branch of professional engineering work.

(5) Nothing in subsection (4) prevents a licensed professional engineering practice from carrying on any activity necessary to the winding up of that practice.

(6) Subject to the provisions of this Act, a person must not —

- (a) supply in Singapore, professional engineering services relating to any of the prescribed branches of professional engineering work unless the person is —

- (i) a licensed professional engineering practice licensed to supply professional engineering services relating to that prescribed branch of professional engineering work; or
 - (ii) a registered professional engineer who has in force a practising certificate authorising him to engage in the prescribed branch of professional engineering work to which those services relate, and is doing so —
 - (A) on the person's own account or as a director, partner or employee (as the case may be) of a licensed professional engineering practice mentioned in sub-paragraph (i); or
 - (B) as a partner in a partnership consisting wholly of registered professional engineers who each has in force a practising certificate; or
- (b) offer to supply in Singapore, professional engineering services relating to any of the prescribed branches of professional engineering work unless the person is —
- (i) a person mentioned in paragraph (a)(i) or (ii);
 - (ii) an allied professional who is doing so only by reason of being a partner in a licensed partnership or licensed limited liability partnership; or

- (iii) a foreign engineer authorised under subsection (1)(c) to engage in the prescribed branch of professional engineering work to which those services relate.

(7) Despite subsection (6), a builder may in connection with any building works which the builder undertakes to carry out, supply or offer to supply in Singapore, professional engineering services relating to any of the prescribed branches of professional engineering work if —

- (a) the professional engineering services are provided by a person mentioned in subsection (6)(a); or

(b) the professional engineering services —

- (i) are provided by a registered professional engineer employed by the builder, and the registered professional engineer has in force a practising certificate authorising him to engage in the professional engineering work to which those services relate; and

- (ii) relate to any of the prescribed works necessary for the progress of the building works.

(8) Any person who contravenes subsection (1), (2), (3), (4) or (6) shall be guilty of an offence and shall be liable on conviction —

(a) in the case of a natural person —

- (i) to a fine not exceeding \$5,000; and
- (ii) if the person is a repeat offender, to a fine not exceeding \$10,000 or to

imprisonment for a term not exceeding 6 months or to both; and

(b) in the case of a body corporate —

(i) to a fine not exceeding \$5,000; and

(ii) if the body corporate is a repeat offender, to a fine not exceeding \$10,000.

(9) In this section, a person is a repeat offender if the person who is convicted, or found guilty, of an offence under subsection (8) has (whether before, on or after the date of commencement of section 9(d) of the Professional Engineers (Amendment) Act 2017) been convicted or found guilty on at least one other earlier occasion of —

(a) an offence under subsection (8) for contravening subsection (1), (2), (3), (4) or (6); or

(b) an offence under subsection (6) as in force immediately before that date for contravening subsection (1), (2), (3), (4) or (5) as in force immediately before that same date.”.

New section 10A

10. The principal Act is amended by inserting, immediately after section 10, the following section:

“Recognition to carry out professional engineering work outside Singapore

10A.—(1) Any person in Singapore seeking to carry out professional engineering work in a country or territory outside Singapore (called in this section the applicant), may apply to the Board to be recognised for that purpose accompanied by the prescribed fee.

(2) The Board may grant an application under subsection (1) if it is satisfied that the applicant is eligible to be recognised under this section.

(3) The Board may allow the applicant to whom recognition is granted to use a specified title, denoting that recognition.”.

Repeal and re-enactment of section 12

11. Section 12 of the principal Act is repealed and the following section substituted therefor:

“Remuneration for professional engineering services

12.—(1) Subject to the provisions of this Act, a person is not entitled to demand, claim or sue for or recover any charge, fee or remuneration for any professional engineering services supplied by the person in Singapore, or for any offer by the person to supply professional engineering services in Singapore, in connection with any arbitration, suit or matter, unless the person supplying or offering to supply professional engineering services is authorised by this Act to supply those services.

(2) Any person, who has made any payment to another person for that other person engaging in conduct which is in contravention of section 10, may recover the money in a court of competent jurisdiction if the person did not know or have reason to believe, when making payment, that the conduct by that other person was in contravention of section 10.”.

Amendment of section 15

12. Section 15 of the principal Act is amended by deleting subsection (2) and substituting the following subsection:

“(2) A person is not entitled to registration under subsection (1)(a) or (b) unless the person satisfies the Board that he has —

(a) passed such examination as may be prescribed by the Board; and

- (b) after obtaining the relevant qualifications mentioned in subsection (1), acquired practical experience of such nature and duration as may be prescribed by the Board.”.

Amendment of section 17C

13. Section 17C of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

“(3) Despite subsection (2), any person whose name and particulars have been removed from the register of professional engineers under section 17B(1), may make a fresh application for registration at any time in accordance with the provisions of Part IV, and the Board may consider the application.”.

Amendment of section 20

14. Section 20 of the principal Act is amended —

- (a) by deleting the words “any professional engineering services” in subsections (1), (2) and (3) and substituting in each case the words “professional engineering services relating to any of the prescribed branches of professional engineering work”;
- (b) by deleting the words “professional engineering work” in subsections (2)(c), (3)(b) and (4)(d) and substituting in each case the words “such professional engineering work”;
- (c) by deleting the words “professional engineering services in Singapore” in subsection (4) and substituting the words “professional engineering services relating to any of the prescribed branches of professional engineering work in Singapore”; and
- (d) by inserting, immediately after the words “to supply” in subsection (4)(a), the word “such”.

Amendment of section 21

15. Section 21 of the principal Act is amended —

- (a) by inserting, immediately after the words “professional engineering services” in subsections (1) and (2), the words “relating to any of the prescribed branches of professional engineering work”;
- (b) by deleting the word “or” at the end of subsection (1)(c)(ii); and
- (c) by deleting the full-stop at the end of sub-paragraph (iii) of subsection (1)(c) and substituting the word “; or”, and by inserting immediately thereafter the following sub-paragraph:

“(iv) a specialist professional engineer engaged by a corporation or limited liability partnership under a contract for service to provide specialised engineering services relating to the prescribed branch of professional engineering work supplied by the corporation or limited liability partnership (as the case may be).”.

Amendment of section 24

16. Section 24 of the principal Act is amended by inserting, immediately after the words “professional engineering services”, the words “relating to any of the prescribed branches of professional engineering work”.

Amendment of section 26

17. Section 26 of the principal Act is amended by inserting, immediately after the words “supply of professional engineering services”, the words “in respect of any of the prescribed branches of professional engineering work”.

Amendment of section 26A

18. Section 26A of the principal Act is amended —

(a) by inserting, immediately after the words “professional engineering services” in subsection (1)(i), the words “relating to any of the prescribed branches of professional engineering work”;

(b) by deleting subsection (2) and substituting the following subsections:

“(2) The Board may, in any case in which it considers that no cause of sufficient gravity for revoking a licence exists —

(a) by writing censure the corporation, partnership or limited liability partnership;
or

(b) by order impose on the corporation, partnership or limited liability partnership a penalty not exceeding \$100,000.

(2A) Any penalty imposed under subsection (2)(b) is to be collected, and may be sued for and recovered by the Board.”; and

(c) by inserting, immediately after the words “professional engineering services” in subsection (6)(b), the words “relating to any of the prescribed branches of professional engineering work”.

Amendment of section 28

19. Section 28 of the principal Act is amended —

(a) by inserting, immediately after the words “Any complaint”, the words “or information”; and

(b) by deleting the words “section 26A(1)(e)” in paragraph (e) and substituting the words “section 26A(1)(f)”.

Amendment of section 31G

20. Section 31G of the principal Act is amended —

- (a) by deleting the words “section 26A(1)(e)” in subsection (1)(e) and substituting the words “section 26A(1)(f)”; and
- (b) by deleting “\$10,000” in subsections (2)(c) and (3) and substituting in each case “\$50,000”.

New section 31K

21. The principal Act is amended by inserting, immediately before section 32 in Part VIII, the following section:

“Investigators

31K.—(1) The Board may, in writing, appoint a member or an employee of the Board, a public officer or any other person as an investigator, subject to such conditions and limitations as the Board may specify, to investigate the commission of an offence under this Act.

(2) An investigator may, for the purposes of subsection (1) —

- (a) by order in writing require any person —
 - (i) to furnish any information within the person’s knowledge;
 - (ii) to produce any document or other record, or any article or thing which may be in the person’s custody or possession and which may be related to or connected with the subject matter of the investigation for inspection by the investigator and for making copies, or to provide copies of such document or other record; and
 - (iii) if necessary, to attend at a specified time and place for the purpose of complying with sub-paragraph (i) or (ii);

- (b) by order in writing require the attendance before the investigator of any person who, from any information given or otherwise, appears to be acquainted with the facts and circumstances of the matter under investigation; and
- (c) examine orally any person apparently acquainted with the facts and circumstances of the matter under investigation, and to reduce into writing the answer given or statement made by that person who is bound to state truly the facts and circumstances with which the person is acquainted, and the statement made by that person must be read over to the person and must, after correction (if necessary), be signed by the person.

(3) An investigator may apply to a Magistrate for a search warrant relating to any premises if the investigator has reasonable cause to believe that evidence of the commission of an offence under this Act can be found in the premises.

(4) The Magistrate may issue a search warrant if satisfied that there are reasonable grounds to do so.

(5) A search warrant issued under subsection (4) authorises the investigator to whom it is directed to enter and search the premises referred to in the warrant and to do all or any of the following:

- (a) inspect and make copies of or take extracts from, or require any person or the person having the management or control of the premises to provide copies of or extracts from, any document, record or electronic material relating to the affairs of the premises or services provided at the premises;
- (b) take such photographs or video recording as the investigator thinks necessary to record the premises or part of the premises, including any instrument, article, document or record found on the premises;
- (c) seize and remove from the premises any record, document, or any other material which the investigator

reasonably believes to be the subject matter of, or to be connected with, an investigation under subsection (1).

(6) Any person who —

(a) intentionally offers any resistance to or wilfully delays an investigator in the exercise of any power under subsection (2) or pursuant to a search warrant issued under subsection (4); or

(b) fails to comply with any requisition or order of an investigator under subsection (2),

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

Amendment of section 32

22. Section 32(7) of the principal Act is amended by deleting the words “3 months” and substituting the words “6 months”.

New sections 33 and 33A

23. The principal Act is amended by inserting, immediately after section 32, the following sections:

“Financial penalties payable into Consolidated Fund

33. All financial penalties collected by the Board under this Act are to be paid into the Consolidated Fund.

Public servants

33A. Every member and employee of the Board is, in relation to his administration, assessment, collection and enforcement of payment of any financial penalty imposed under this Act, taken to be a public officer for the purposes of the Financial Procedure Act (Cap. 109); and section 20 of that Act applies to each of these persons even though he is not or was not in the employment of the Government.”.

Repeal and re-enactment of section 35 and new section 35A

24. Section 35 of the principal Act is repealed and the following sections substituted therefor:

“Offences by corporations

35.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of a corporation in relation to a particular conduct, evidence that —

(a) an officer, employee or agent of the corporation engaged in that conduct within the scope of his actual or apparent authority; and

(b) the officer, employee or agent had that state of mind, is evidence that the corporation had that state of mind.

(2) Where a corporation commits an offence under this Act, a person —

(a) who is —

(i) an officer of the corporation, or a member of a corporation (in the case where the affairs of the corporation are managed by its members); or

(ii) an individual who is involved in the management of the corporation and is in a position to influence the conduct of the corporation in relation to the commission of the offence; and

(b) who —

(i) consented or connived, or conspired with others, to effect the commission of the offence;

(ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the corporation; or

- (iii) knew or ought reasonably to have known that the offence by the corporation (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of that same offence as is the corporation, and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the corporation if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the corporation would bear.

(4) To avoid doubt, this section does not affect the application of —

- (a) Chapters V and VA of the Penal Code (Cap. 224); or
- (b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of the corporation for an offence under this Act, and applies whether or not the corporation is convicted of the offence.

(6) In this section —

“corporation” includes a limited liability partnership within the meaning of section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

“officer”, in relation to a corporation, means any director, partner, chief executive, manager, secretary or other similar officer of the corporation, and includes —

- (a) any person purporting to act in any such capacity; and
- (b) for a corporation whose affairs are managed by its members, any of those members as if the member were a director of the corporation;

“state of mind” of a person includes —

- (a) the knowledge, intention, opinion, belief or purpose of the person; and
- (b) the person’s reasons for the intention, opinion, belief or purpose.

Offences by unincorporated associations or partnerships

35A.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of an unincorporated association or a partnership in relation to a particular conduct, evidence that —

- (a) an employee or agent of the unincorporated association or the partnership engaged in that conduct within the scope of his actual or apparent authority; and
- (b) the employee or agent had that state of mind,

is evidence that the unincorporated association or partnership had that state of mind.

(2) Where an unincorporated association or a partnership commits an offence under this Act, a person —

- (a) who is —
 - (i) an officer of the unincorporated association or a member of its governing body;
 - (ii) a partner in the partnership; or
 - (iii) an individual who is involved in the management of the unincorporated association or partnership and who is in a position to influence the conduct of the unincorporated association or partnership (as the case may be) in relation to the commission of the offence; and
- (b) who —
 - (i) consented or connived, or conspired with others, to effect the commission of the offence;

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- (ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the unincorporated association or partnership; or
 - (iii) knew or ought reasonably to have known that the offence by the unincorporated association or partnership (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of the same offence as is the unincorporated association or partnership (as the case may be), and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the unincorporated association or partnership if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the unincorporated association or partnership would bear.

(4) To avoid doubt, this section does not affect the application of —

- (a) Chapters V and VA of the Penal Code (Cap. 224); or
- (b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of the unincorporated association or partnership for an offence under this Act, and applies whether or not the unincorporated association or partnership is convicted of the offence.

(6) In this section —

“officer”, in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, and includes —

(a) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association; and

(b) any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner;

“state of mind” of a person includes —

(a) the knowledge, intention, opinion, belief or purpose of the person; and

(b) the person’s reasons for the intention, opinion, belief or purpose.”.

Validation

25.—(1) This section applies to the following sums purportedly collected by or on behalf of the Board before the date of commencement of this section:

(a) any sum collected from any person mentioned in section 10(1)(c) of the principal Act as a fee for authorisation under that section;

(b) any sum collected from any person as an application fee for recognition to carry out professional engineering work in a country or territory outside Singapore.

(2) Every sum mentioned in —

(a) subsection (1)(a) is, and is taken always to have been, by force of this section, validly imposed and collected under section 10(1A) of the principal Act as amended by this Act; and no legal proceedings may be instituted on or after 1 August 2017 in any court on account of or in respect of any such collection; and

(b) subsection (1)(b) is, and is taken always to have been, by force of this section, validly imposed and collected under section 10A(1) of the principal Act inserted by section 10 of this Act; and no legal proceedings may be instituted on or

after 1 August 2017 in any court on account of or in respect of any such collection.

Saving and transitional provisions

26.—(1) Any person who, immediately before the date of commencement of section 10, is recognised by the Board to carry out professional engineering work in a country or territory outside Singapore, is treated as recognised under section 10A of the principal Act.

(2) Section 11 applies to and in relation to any professional engineering services supplied or offered before, on or after the date of commencement of that section.

(3) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.
