

Inspection and supervision of prescribed construction work sites by qualified persons.

35. (1) A qualified person shall in respect of the execution of prescribed construction works—

- (a) take all reasonable care and exercise due diligence in inspecting the construction work to ensure that the construction works are carried out in accordance with the provisions of this Act and with recognized professional standards;
- (b) determine the degree and extent of immediate supervision required and arrange for such supervision to ensure that the works are carried out in conformity with specifications and accepted standards;
- (c) keep and maintain such documents, books and records as may be prescribed at the site, on which construction works are carried out.

(2) Every qualified person whose name has been included in the register maintained by the Authority under section 27 shall carry out or cause to be carried out such tests or inspections in connection with the prescribed construction works as may be prescribed or required under the contract.

Conduct of investigations against Qualified Persons.

36. (1) Any complaint against a qualified person relating to -

- (a) any professional negligence, lack of competency or violation of ethical and social standards;
- (b) moral turpitude, malpractice, fraud or dishonesty;
- (c) breach of any terms and conditions where his registration has been granted subject to any terms and conditions of registration,

may be made to the Authority.

(2) Where the qualified person against whom a complaint has been made under subsection (1), is a member of any professional body specified in paragraphs (a), (b) and (c) of subsection (1) of section 27, the Authority shall refer such complaint to the relevant disciplinary committee ~~comprising~~ of ~~eminent~~ professionals ^{body} for necessary action.

the relevant

(3) On receipt of a complaint by the Authority, the relevant disciplinary committee shall carry out an investigation in respect of the matter so referred under subsection (2) and the findings in respect thereof shall be forwarded to the relevant professional body within a period of not more than one month from the date of receipt of such referral. A copy of such findings shall also be sent to the Authority.

(4) Whenever the Disciplinary Committee refers its findings relating to a matter to the relevant professional body for action as stated in subsection (3), the professional body shall within a period of three months of the findings being referred to it, take or recommend the taking of appropriate action, and shall in writing, inform the Authority of the same.

(5) If no suitable recommendation is received within the period specified in subsection (4), the Authority shall investigate and take appropriate action in respect of such matter.

Engagement of
foreign
consultants.

37. (1) No foreign consultants shall be engaged in any construction work in Sri Lanka unless-

- (a) the person requiring to engage a foreign consultant for the design, preparation of contract documents and supervision of construction works has applied to the Authority for its approval to engage such foreign consultant in construction work;
- (b) any such foreign consultant has collaborated with a local consultant under an agreement for the design, preparation of contract documents and supervision of construction works, substantially in such form as shall be prescribed.

(2) Every foreign consultant permitted to work in Sri Lanka shall be a corporate member of an Institution of Architects recognized by the Sri Lanka Institute of Architects or a corporate member of an Institution of Engineers recognized by the Institution of Engineers, Sri Lanka or by the Sri Lanka Institute of Quantity Surveyors or any other relevant professional body or where he belongs to any other profession he shall be a member of the relevant professional body in the country in which he has so qualified, as is acceptable to the Authority.

(3) Every foreign consultant shall, prior to being engaged in consultancy work in Sri Lanka, apply for and obtain in accordance with the foregoing provisions, a temporary registration as a qualified person which shall be subject to yearly renewal on the condition that the registration is linked to an approved project.

Limitation of
employment of
foreign
consultants.

38. (1) The Authority shall not approve the employment of any foreign consultant in the case of an externally funded project unless the required knowledge and expertise are not available with the local consultants.

(2) The Authority shall have the power to inquire into any complaint

made to it against any person who employs a foreign consultant or who has procured or attempted to procure the provision of foreign consultancy services. The Authority shall have the power to give such directions to such person or a foreign consultancy firm as may be necessary to ensure compliance with the provisions of this Act. The decision of the Authority in this regard shall be final.

Payments to
qualified persons.

39. (1) Any person retaining the services of a qualified person shall pay the professional fees of such qualified person and the costs of associated tests and investigations as agreed between the parties within a specified period:

Provided that where a contract which is in force, is transferred to a new employer, all outstanding payments and contractual obligations which were in existence as between the previous employer and the respective qualified person, shall continue to be valid and effective and the parties thereto after the transfer is effected, shall be required to fulfil their obligations under such contract.

(2) Any qualified person who is not paid in the manner specified in subsection (1) shall in addition to any other relief be entitled to specific performance.

Applicable
Laws.

40. All construction works shall be carried out in accordance with the provisions of the written laws for the time being in force and applicable to the construction industry in Sri Lanka.

PART VI

CONSTRUCTION

Register of
Contractors.

41. The Authority shall keep and maintain a Register of Contractors (hereinafter referred to as the "Register of Contractors") which shall be available free of charge for inspection at the office of the Authority by any person during office hours.

Procedure for
the Registration
of Contractors
and renewal of
registration.

42. (1) The registration of a person as a contractor shall be according to the field of specialty, grade and any other prescribed criteria be done if such a person satisfies the Authority of his suitability and that he possesses the qualifications and other requirements as shall be prescribed in that behalf.

(2) An application for registration as a contractor shall be made to the Authority in such manner and with such particulars, documents and such fees as may be prescribed.

(3) The Authority shall appoint a committee to consider applications for registration of persons as contractors, in consultation with professional bodies and national level contractors associations. The Authority shall formulate specific criteria and procedures for registration, grading and monitoring of contractors.

(4) Where the Authority has registered any person as a contractor, the Authority shall issue to such person a Registration Number and a

Certificate of Registration, in proof thereof.

(5) The Registration obtained by a contractor under this section shall be valid for the period specified in the Certificate of Registration issued under subsection (4) and may be renewed on application, made in that behalf and upon payment of the prescribed renewal fee.

Cancellation of
the registration of
a contractor.

43. The Authority may suspend or cancel the registration of a registered contractor, or take such other action based on the recommendations of the disciplinary committee appointed under section 45, if such contractor—

- (a) is subject to professional negligence or lack of competency;
- (b) is in breach of his contractual obligations as a contractor;
- (c) has been found guilty of moral turpitude, malpractice, fraud or dishonesty;
- (d) is in breach of any terms and conditions where his registration has been granted subject to any terms and conditions of registration;
- (e) has obtained registration as a contractor by fraud or misrepresentation; or
- (f) is found by the Authority to have contravened or failed to comply with the provisions of this Act or any regulation made there under.

Procedure for
disposal of
complaints against
contractors.

44. The Authority shall, where it receives any complaint against a contractor, refer such complaints to a disciplinary committee comprising eminent persons, which shall investigate and make recommendations to the Authority. The guidelines for disciplinary procedure shall be as prescribed by the Authority.

Appeals against
refusal to register
a contractor.

45. (1) A person whose application for registration as a contractor is refused or who is dissatisfied with the grading or classification accorded to him, may appeal to the Appeals Board in the manner set out in section 72. Such appeal shall be made within thirty days from the date of receipt of the decision of the Authority.

(2) The decision of the Appeals Board on such appeal shall be final.