

## **AN ACT**

to provide for registration of professional engineers and for matters connected herewith.

It is hereby enacted in the Fifty-fifth Year of the Republic of India as follows:--

### **CHAPTER – I**

#### **PRELIMINARY**

- Short title, extent, and commencement** 1. (1) This Act may be called the Gujarat Professional Civil Engineers Act, 2006.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.
- Definitions.** 2. In this Act, unless the context otherwise requires—
- a) “Council” means the Gujarat Council of Professional Civil Engineers (GCPCE) established under Section 3;
  - b) “member” means a member of the Council;
  - c) “President” means the President of the Council;
  - d) “professional civil engineer” means a person whose name is for the time being entered in the register;
  - e) “recognised engineering institution” means any University established by law in India or other institution in India which imparts education in engineering and confers a degree or diploma in engineering and is recognised by the National Assessment and Accreditation Council established in 1994;
  - f) “register” means the register of Professional Civil Engineers maintained under this Act;
  - g) “registrar” means the registrar appointed under clause (a) of sub-section (1) of section 11;
  - h) “regulation” means a regulation made under this Act by the Council;
  - i) “Rule” means a rule made under this Act by the State Government;
  - j) “Vice-President” means the Vice-President of the Council.

#### **Establishment and composition of Council**

## CHAPTER- II

### GUJARAT COUNCIL OF PROFESSIONAL CIVIL ENGINEERS

- 3.1 With effect from such date as the State Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established a Council to be called the Gujarat Council of Professional Civil Engineers.
- 3.2 The Council shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power to acquire, hold or dispose of property both movable and immovable and to contract and shall by the said name sue or be sued.
- 3.3 The Council shall consist of the following members, namely:-
- a) five professional civil engineers elected by professional civil engineers from among themselves.
- (i) one person to be appointed by the State Government in Urban Development and Urban Housing Department, from amongst the engineers not below the level of Chief Engineer and who is employed for not less than ten years in the Municipal Corporations of cities in the State constituted under the Bombay Provincial Municipal Corporations Act, 1949 ex officio.
- (ii) one person to be appointed by the State Government in the Roads and Buildings Department from amongst the Engineers not below the level of Chief Engineer in the Department and dealing with the subject of buildings, ex officio.
- (iii) one person to be appointed by the State Government in the Narmada Water Resources & Water Supply Dept., from amongst the engineers not below the level of Chief Engineer, ex-officio.
- (iv) Chief Town Planner to the Government of Gujarat, ex officio.
- (v) one person to be appointed by the Director of Technical Education, Gujarat State, from amongst the faculties of the civil engineering and applied mechanics departments of the Universities established by law in the State and of colleges affiliated to such Universities, imparting education in civil engineering, ex officio.
- b) two persons to be co-opted by the Council from amongst professional civil engineers.
- 3.4 Notwithstanding anything contained in clause (a) of sub-section (3), the State Government may, pending the preparation of the register, nominate to the first Council, persons who are eligible to appear in the examination for registration under section 13 and the persons so nominated shall hold office for such period not exceeding three years in the aggregate as the State Government may, by notification in the *Official Gazette*, specify.
- 3.5 Notwithstanding anything contained in clause (d) of sub-section (3), the State Government may, pending preparation of the register, co-opt to the first Council, persons who are eligible to appear in the examination for registration under section 13 and the persons so co-opted shall hold office for such period not exceeding three years in the aggregate as the State Government may, by notification in the *Official Gazette*, specify.

<b>President and Vice-President of the Council</b>	4.1 The President and the Vice-President of the Council shall be elected by the members of the Council other than co-opted members from among themselves:
	Provided that on the first constitution of the Council and until the President is elected, a member of the Council nominated by the State Government in this behalf shall discharge the functions of the President.
	4.2 An elected President or Vice-President of the Council shall hold office for a term of four years or till he ceases to be a member of the Council, whichever is earlier, but subject to his being a member of the Council, he shall be eligible for re-election:
	Provided that—
	<ul style="list-style-type: none"> <li>a) the President or the Vice-President may, by writing under his hand addressed to the Vice-President or the President, as the case may be, resign his office;</li> <li>b) the President or the Vice-President shall, notwithstanding the expiry of his term of four years, continue to hold office until his successor enters upon office.</li> </ul>
	4.3 The President and the Vice-President shall exercise such powers and discharge such duties as may be prescribed by regulations.
<b>Mode of elections</b>	5.1 Elections under this Chapter shall be conducted in such manner as may be prescribed by rules.
	5.2 Where any dispute arises regarding any such election, the matter shall be referred by the Council to a Tribunal appointed by the State Government by notification in the <i>Official Gazette</i> in this behalf, and the decision of the Tribunal shall be final and shall not be called in question in any court:
	Provided that no such reference shall be made except on an application made to the Council by an aggrieved party within thirty days from the date of the declaration of the result of the election.
	5.3 The expenses of the Tribunal shall be borne by the Council.
<b>Term of office and casual vacancies</b>	6.1 (a) Subject to the provisions of this section, an elected member shall hold office for a term of three years from the date of his election or until his successor has been duly elected, whichever is later.
	(b) A co-opted member shall hold office for such term as the Council may determine.
	6.2 An elected or nominated or co-opted member may, at any time resign his membership by writing under his hand addressed to the President, or in his absence, to the Vice-President, and the seat of such member shall thereupon become vacant

- 6.3 A member shall be deemed to have vacated his seat—
- (i) if he is absent without excuse, sufficient in the opinion of the Council, from three consecutive ordinary meetings of the Council; or
  - (ii) if he ceases to be a professional civil engineer referred to in clause (a) or (d) of sub-section (3) of section 3 or if he ceases to be a professor referred to in clause (c) of sub-section (3) of section 3;
- 6.4 A casual vacancy in the Council shall be filled by fresh election or Nomination or, as the case may be, co-option and the person so elected or nominated or co-opted to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was elected or nominated or co-opted.
- 6.5 Members of the Council shall be eligible for re-election or re-nomination so however not to exceed two consecutive terms.

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

- 7.0 No act or proceeding of the Council shall be invalid merely by reason of—
- a) any vacancy in, or defect in the constitution of, the Council, or
  - b) any defect in the election or nomination or co-option of a person acting as a member thereof, or
  - c) any irregularity in procedure not affecting the merits of the case

**Disabilities**

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

**Meetings of Council**

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

**Fees and allowances**

**To President, Vice-President and members**

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

**Officers and Other employees**

11.1 The Council shall—

- a) appoint a Registrar who shall act as its Secretary and who may also act, if so decided by the Council, as its treasurer;
- b) appoint such other officers and employees as the Council deems necessary to enable it to carry out its functions under this Act

**Finances of Council**

- c) with the previous sanction of the State Government, fix the pay and allowances and other conditions of service of officers and other employees of the Council.

11.2 Notwithstanding anything contained in clause (a) of sub-section (1) for the first four years from the first constitution of the Council, the Registrar of the Council shall be a person appointed by the State Government who shall hold office during the pleasure of the State Government.

11.3 All the persons appointed under this section shall be the employees of the Council.

12.1 There shall be established a Fund under the management and control of the Council into which shall be paid all moneys received by the Council and out of which shall be met all expenses and liabilities properly incurred by the Council.

12.2 The Council may invest any money for the time being standing to the credit of the Fund in any Government security or in any other security approved by the State Government.

12.3 The Council shall prepare and maintain the accounts of the Fund in such form and manner as may be prescribed by regulations.

12.4 The annual accounts of the Council shall be subject to audit by an auditor who is a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949, to be appointed annually by the Council.

12.5 As soon as may be practicable at the end of each financial year, but not later than the thirtieth day of September of the year next following, the Council shall cause to be published in the Official Gazette a copy of the audited accounts and the report of the Council for that year and copies of the said accounts and report shall be forwarded to the State Government.

12.6 The Fund shall consist of—

- a) all moneys received from the State Government by way of grant or gift;
- b) any sums received under this Act whether by way of fee or otherwise.

**Functions of  
the Council**

- 12.7 All moneys standing at the credit of Council which cannot immediately be applied shall be deposited in the State Bank of India or in any scheduled bank specified in the Second Schedule to the Reserve Bank of India Act, 1934.
- 13.0 Subject to the provisions of this Act, the Council shall perform the following functions namely:-
- (a) to manage the property of the Council;
  - (b) to manage and control the fund established under sub-section (1) of section 12;
  - (c) to keep proper accounts of the fund;
  - (d) to hold examinations prescribed by regulations;
  - (e) to cause to be prepared and maintain a register of professional civil engineers;
  - (f) to grant or refuse certificate of practice;
  - (g) to levy and collect fees from examinees, civil engineers applying for registration, professional civil engineers and others;
  - (h) to remove from the register the names of professional civil engineers and to restore to the register the names of professional civil engineers which have been removed;
  - (i) to prescribe standards of professional conduct and etiquette and codes of ethics for professional civil engineers.
  - (j) To exercise disciplinary powers conferred by this Act and
  - (k) To perform such other functions as are laid down in this Act and in the rules and regulations.

**CHAPTER –III**

**REGISTRATION OF PROFESSIONAL ENGINEERS**

**Entry of names in  
register**

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

(c) on whom a diploma in civil engineering is conferred by a recognized engineering institution and who possesses experience of working as a civil engineer for a period of not less than six years after such conferment, or

(d) who possesses such other qualification as is recognized as being equivalent to the qualification mentioned in clause (a) or (b) and experience of working as a civil engineer for such period as may be prescribed by regulations,

shall be eligible to appear for such examination as may be prescribed by regulations, on payment of such fees as may be prescribed by rules, and held by the Council and on passing such examination, such person shall be entitled to have his name entered in the register.

14.2 Notwithstanding anything contained in sub-section (1), a person, who, having possessed any of the qualifications mentioned in clauses (a) to (d) of that sub-section, possesses at the commencement of this Act experience of working as a civil engineer for a period of not less than fifteen years, shall be entitled to have his name entered in the register, during the period of two years from such commencement, if the Council on verification of his qualifications and experience in such manner as prescribed by regulations is satisfied about the same.

14.3 Every person entitled under sub-section (1) or (2) to have his name entered in the register shall have his name entered in the register on application being made and granted in such manner as may be prescribed by regulations and on payment of such fees not exceeding twenty thousand fees as may be prescribed by rules.

14.4 Any person whose application to have his name entered in register is rejected, may, within three months of the date of such rejection of the application, appeal to the State Government and the decision of the State Government in such appeal shall be final and shall not be called in question in any court.

14.5 Upon entry in the register of a name under this section, the Registrar shall issue a certificate of practice in such form as may be prescribed by rules.

#### **Certificate of Practice**

15.1 No person whose name is entered in the register shall be entitled to practice as a professional civil engineer unless he has obtained from the Council a certificate of practice.

15.2 Every such person shall pay annual fee not exceeding twenty thousand rupees as may be prescribed by rules and such fee shall be payable on or before the 1<sup>st</sup> day of April in each year.

#### **Preparation and maintenance of register**

16.1 The Council shall, upon its constitution, cause to be prepared a register of professional civil engineers in the State and maintain the same in accordance with the provisions of this Act.

16.2 The register shall include the following particulars, namely:--

- a) the full name with date of birth, nationality and residential and professional address of the professional civil engineer;

- b) the date on which his name is registered in the register;
- c) his qualifications for registration, and the date on which he obtained those qualifications and the authority which conferred it; and
- d) such further particulars as may be prescribed by rules.

**Removal from register**

17.1 The Council may, by order, remove from the register the name of any professional civil engineer--

- a) from whom a request has been received to that effect, or
- b) who has died since the last publication of the register, or
- c) who has failed to pay annual fee for three consecutive years.

17.2 Subject to the provisions of this section, the Council may order that the name of any professional civil engineer shall be removed from the register where it is satisfied, after giving him a reasonable opportunity of being heard and after such further inquiry, if any, as it may think fit to make--

- a) that his name has been entered in the register by error or on account of misrepresentation or suppression of a material fact; or
- b) that he has been convicted of any offence which, in the opinion of the Council, involves moral turpitude or has been guilty of any infamous conduct in any professional respect or has violated standards of professional conduct and etiquette or the code of ethics which, in the opinion of the Council, renders him unfit to be kept in the register;
- c) that he is an undischarged insolvent; or
- d) that he has been adjudged by a competent Court to be of unsound mind.

17.3 An order under sub-section (2) may direct that any professional civil engineer whose name is ordered to be removed from the register shall be ineligible for registration under this Act either permanently or for such period of years as may be specified.

17.4 An order under sub-section (2) shall not take effect until the expiry of three months from the date thereof.

**Surrender of Certificate**

18. A person whose name has been removed from the register under sub-section (1) or sub-section (2) of section 16, or sub-section (2) of section 22, or where such person is dead, his legal representative, as defined in clause (11) of section 2 of Code of Civil Procedure, 1908, shall forthwith surrender his certificate of practice to the Registrar and the name so removed shall be published in the *Official Gazette*.

**Restoration to register**

**Issue of duplicate certificates**

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

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

**Printing of register**

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

**CHAPTER –IV**

**Professional conduct**

**MISCONDUCT**

22.1 The Council may by regulations prescribe standards of professional conduct and etiquette and a code of ethics for professional civil engineers.

22.2 Regulations made by the Council under sub-section (1) may specify which violations thereof shall constitute infamous conduct in any professional respect, that is to say, professional misconduct, and such provisions shall have effect notwithstanding anything contained in any law for the time being in force.

**Procedure in inquiries relating to misconduct**

23.1 When on receipt of a complaint made to it, the Council is *prima facie* of opinion that any professional civil engineer has been guilty of professional misconduct which, if proved, will render him unfit to practice as a professional civil engineer, the Council may hold an inquiry in such manner as may be prescribed by rules.

23.2 After holding the inquiry under sub-section (1) and after hearing the professional civil engineer, if the Council is of the opinion that the professional civil engineer has been guilty of professional misconduct, it may, by order, reprimand the said professional engineer or suspend him from practice as a professional engineer or remove his name from the register or pass such other order as it thinks fit.

**CHAPTER V**

**Penalty for falsely claiming to be registered**

**MISCELLANEOUS**

24. (a) If any person whose name is not for the time being entered in the Register falsely represents that it is so entered, or uses in connection with his name or title any words or letters reasonably calculated to suggest that his or its name is so entered,

or

(b) if any person being registered as a professional civil engineer but not having a certificate of practice represents that he is practice or practices as a professional civil engineer,

he shall be punishable with fine which may extend to five thousand rupees.

**Prohibition against use of title**

25.1 After the expiry of six months from the date of the preparation of the register, no person other than a registered professional civil engineer, or a firm of professional civil engineers shall use the title and style of professional civil engineer.

25.2 If any person contravenes the provisions of sub-section (1), he shall be punishable on first conviction with fine which may extend to five lac rupees and on any subsequent conviction with imprisonment which may extend to six months or with fine not exceeding ten lac rupees or with both.

**Unqualified persons not to certify engineering designs**

26.1 Notwithstanding anything contained in any law for the time being in force, after the expiry of two years from the commencement of this Act, no person shall certify an engineering design

(a) of a building the plinth area of which exceeds one hundred and forty square meters or the height of which exceeds the normal height of a building having the ground floor and a first floor;

(b) Buildings of less than 140 square meters are exempt only if they are not part of a larger housing project comprising a maximum of 3 buildings,

unless he is a professional civil engineer.

26.2 Any person contravening the provision of sub-section (1) shall, without prejudice to any other proceedings which may be taken against him, be punishable with fine which may extend on first conviction to five thousand rupees and on any subsequent conviction with imprisonment which may extend to six months or with fine not exceeding ten thousand rupees or with both.

**Failure to surrender Certificate of Practice**

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

**Cognizance of offences**

28.1 No Court shall take cognizance of any offence punishable under this Act, except upon complaint made by order of the Council or a person authorized in this behalf by the Council.

28.2 No Magistrate other than a Metropolitan Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

<b>Authority not to permit construction unless engineering design is certified by professional civil engineer</b>	29	Notwithstanding anything contained in any law for the time being in force, after the expiry of two years from the commencement of this Act, the State Government or any of its officers or a Local Authority or any of its officers or an Area Development Authority or Urban Area Development Authority constituted under the Gujarat Town Planning and Urban Development Act, 1976 or any of its officers shall not permit construction of a building falling under clause (a) or (b) of sub-section (1) of section 26.
<b>Information to be furnished by the Council and Publication thereof</b>	30.1	The Council shall furnish such reports, copies of the minutes, and any other information to the State Government as that Government may require.
	30.2	The State Government may publish, in such manner as it may think fit, any report, copy or other information furnished to it under this Section.
<b>Protection of action taken in good faith</b>	31.	No suit, prosecution or other legal proceeding shall lie against the State Government, the Council or any member of the Council, or officers and other employees of the Council for anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder.
<b>Members of Council and officers and employees to be public servants</b>	32	The members of the Council and officers and other employees of the Council shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.
<b>Power to remove difficulties</b>	33.1	If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty.  Provided that no such order shall be made under this Section after the expiry of two years from the date of commencement of this Act.
	33.2	Every order made under this Section shall as soon as may be after it is made, be laid before the State Legislature.
	34.1	The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.
<b>Power to make Rules</b>	34.2	In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -  (a) the manner in which the elections under Chapter II shall be conducted, the terms and conditions of service of the member of the Tribunal appointed under sub-section (2) of section 5 and the procedure to be followed by the Tribunal;  (b) the fee to be paid under sub-sections (1) and (2) of section 14, sub-section (2) of section 15 and sections 19 and 20 and 21;  (c) the form in which a certificate of practice is to be issued under sub-section (5) of section 14; (d) further particulars to be included in the register under clause (d) of sub-section (2) of section 16;

- (e) the form in which a duplicate certificate is to be issued under section 20;
- (f) the fee for supplying printed copies of the register under section 21;
- (g) the manner in which the Council shall hold an inquiry under sub-section (1) of section 23;
- (h) any other matter which is to be or may be provided by rules under this Act.

34.2.1 The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

34.2.2 All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by

34.2.3 the State Legislature or to such modification as the State Legislature may make during the session in which they so laid or session immediately following.

34.2.4 Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

**Power to make  
Regulations**

35.1 The Council may, with the approval of the State Government, make Regulations, not inconsistent with the provisions of this Act or the Rules made thereunder, to carry out the purpose of this Act.

35.2.1 In particular and without prejudice to the generality of the foregoing power, such regulations may provide for: -

(a) the management of the property of the Council;

(b) the powers and duties of the President and the Vice-President under sub-section (3) of section 4;

(c) the summoning and holding of meetings of the Council; the time and place at which such meeting shall be held; the conduct of business thereat and the number of persons necessary to constitute a quorum under section 9;

(d) the qualification and the experience of working as a civil engineer to be possessed by a person for being eligible to appear at the examination under clause (d) of sub-section (1) of section 14.

(e) the nature of evidence required to prove the experience referred to in sub-sections (1) and (2) of section 14;

(f) the examination in which persons referred to in clauses (a) to (d) of the said sub-section (1) of section 14 shall be eligible to appear.

(g) the manner in which an application is to be made and granted under sub-section (2) of section 14;

(h) the standards of professional conduct and etiquette and code of ethics to be observed by the professional civil engineer under section 22;

(i) any other matter which is to be or may be provided by regulations under this Act.

