

I assent.

(L.S.)

PAUL XUEREB
Acting President

23rd February, 1988

ACT No. VII of 1988

AN ACT to regulate the engineering profession and to provide for matters connected therewith or ancillary thereto.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the Engineering Profession Act, 1988. Short title
and
commencement.

(2) This Act shall come into force on such date as the Minister responsible for infrastructure may by notice in the Gazette appoint and different dates may be so appointed for different provisions and different purposes of this Act.

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

“Board” means the Engineering Board established by section 6 of this Act;

“Engineer” means a person who has obtained a degree in engineering from the University of Malta or from a foreign institution recognised as equivalent;

“Minister” means the Minister responsible for infrastructure and, to the extent of any functions delegated to it by the Minister, includes the Board.

“prescribed” means prescribed by regulations under this Act;

“profession of engineer” means the profession practised by an engineer who is a warrant holder;

“warrant” means a warrant granted under section 4 of this Act; and “warrant holder” shall be construed accordingly.

Conditions
required to
qualify for
a warrant.

3. (1) No person shall practise the profession of engineer unless he is the holder of a warrant issued under section 4 of this Act.

(2) A person shall not qualify for a warrant unless —

- (a) he is a citizen of Malta;
- (b) he is of good conduct;
- (c) he is of full legal capacity; and
- (d) shall satisfy the Board that:

(i) he is in possession of such degree of the University of Malta or an equivalent professional qualification relating to the engineering profession as at the relevant time is recognised by the Board to be sufficient for the purposes of this section;

(ii) for the period of not less than one year before or after obtaining the qualification referred to in sub-paragraph (i) has undergone practical engineering training approved by the Board; and

(iii) for a period of not less than two years after obtaining the qualification referred to in sub-paragraph (i) has trained in the practice of the profession under the supervision of a practising engineer.

(3) (a) Notwithstanding the provisions of paragraph (d) of subsection (2) of this section, a person who on the first day of January 1988 had already for a period of not less than fifteen years before that date, occupied a responsible engineering position, may be exempted by the Board from having the requirements of paragraph (d) of subsection (2) of this section, and after passing a professional and academic assessment by the Board, may if he satisfies paragraphs (a), (b) and (c) of that subsection, be granted a warrant.

(b) A request for the exemption referred to in paragraph (a) of this subsection must be made to the Board not later than a year after the coming into force of this section:

Provided that a person who has obtained the warrant of architect and civil engineer under the Architects Ordinance may not at the same time obtain the warrant of Engineer.

Cap. 72

Warrant to
practise as
engineer.

4. (1) The warrant to practise the profession of engineer shall be issued by the Minister on the recommendation of the Board to any person who satisfies the requirements of subsection (2), and, where applicable, the provisions of subsection (3), of section 3 of this Act.

(2) A warrant holder may use the designation “Ingénier” or its abbreviation “Ing.” with his name.

5. (1) Notwithstanding the provisions of subsection (2) of section 3 of this Act, the Minister may, after consulting the Board, grant a special licence to any person holding foreign professional engineering qualifications acceptable to the Board, to exercise that profession in Malta for a definite time and for a particular purpose and subject to such other conditions as may be specified in the licence.

Grant of special licence to exercise profession of engineer.

(2) A person to whom a special licence is granted under the preceding subsection shall be deemed to be a warrant holder during the time and for the purpose specified in the licence and the provisions of this Act and of any other law shall apply to him in the same manner and to the same extent like any other warrant holder.

6. (1) There shall be a Board, to be known as the Engineering Board, which shall consist of:

Engineering Board.

(a) a chairman to be appointed by the Minister from among persons who are or have been qualified to be appointed judges in Malta;

(b) three members appointed by the Minister from among warrant holders, one of whom shall be a member of the academic staff of the faculty of Engineering of the University of Malta; and

(c) three members who shall be elected by secret ballot by warrant holders from among themselves:

Provided that not more than two of the elected members shall be warrant holders practising in the same field of the profession;

Provided further that all the first members of the Board other than the chairman shall be appointed by the Minister from among persons who in his opinion qualify for the warrant.

(2) (a) The chairman and the appointed members of the Board shall hold office for such term not exceeding three years and under such conditions as may be set out in their letter of appointment.

(b) The elected members of the Board shall hold office for a period of two years.

(c) The first members of the Board shall hold office for a period not exceeding one year.

(3) The members of the Board shall, on the expiration of the term of their office, be eligible to be reappointed or re-elected, as the case may be.

(4) When any vacancy in the Board occurs the Minister shall, as soon as practicable, in the case of an appointed member, appoint another person to fill the vacancy, and in the case of an elected member, cause an election to be held to fill the vacancy.

(5) The number of members necessary to form a quorum shall be three, but, subject to the presence of a quorum, the Board may act notwithstanding any vacancy among its members.

(6) The Minister may also designate a public officer to act as secretary to the Board, but such secretary shall not have a vote.

(7) Save as aforesaid the Board may make its own rules and otherwise regulate its own procedure.

Functions
of the
Board.

7. (1) The functions of the Board are —

(a) to consider applications for the issue of a warrant and make its recommendations thereon to the Minister;

(b) to hold enquiries regarding any charge of professional misconduct or abuse made against any engineer in connection with the exercise of his profession or with professional matters, saving the provisions of the Criminal Code or of any other law;

(c) to deal with cases leading to the suspension or withdrawal of a warrant, or of a special licence granted under section 5 of this Act, as provided by or under this Act;

(d) to advise, or make recommendations or otherwise express its views to, the Minister on any matter on which the Minister is to consult with the Board or on which the Board is to make recommendations to the Minister or on which the opinion or recommendation of the Board is sought by the Minister;

(e) to perform such other functions as arise from this Act or any other law or as may be delegated to it by the Minister under this Act.

(2) In the exercise of its functions under paragraphs (d) and (e) of subsection (1) of this section the Board may consult with such persons as it may deem appropriate, and in the exercise of its functions under paragraphs (c), (d) and (e) of subsection (1) of this section, may also appoint committees, of which the chairman shall be a member of the Board, for the carrying out of such studies or other work as the Board may assign to them.

(3) The Board shall not later than three months after the end of each year, publish in the Gazette a list of persons who, on the 31st December of the said year, were holders of a warrant issued under this Act. Such list may, with the approval of the Minister, be divided into separate parts, each part containing the list of warrant-holders qualified in separate fields of engineering.

Partnership
of engineers.

8. (1) Two or more warrant holders may form a civil partnership, hereinafter referred to as “partnership of engineers”, having for its exclusive object the practice of engineering and such powers as are necessary for the attainment of the objects of the partnership.

(2) No person other than a warrant holder may be a partner in a partnership of engineers.

(3) Any such partnership shall, when duly formed according to law and on payment of the prescribed fee be registered with the Board, and upon such registration the partners shall, for as long as it is so registered, be authorised to act in the name and on behalf of the partnership which shall be entitled to the designation "Inginiera".

(4) Every such partnership shall give to the Minister or to the Board such information as they may reasonably require or as may be prescribed, and shall give notice to the Minister or to the Board of any relevant change in any information previously given to them, within fifteen days after the date on which the change occurs.

9. Notwithstanding the provisions of any other law or any other agreement to the contrary, the following provisions shall apply to a partnership of engineers registered under this Act:

Provisions applicable to partnerships of engineers.

(a) the partners shall be jointly and severally responsible for the actions and omissions of each and every one of them in the performance of their professional duties, the maintenance of the required professional standard and conduct and generally in the fulfilment of their obligations under this Act or any other applicable law, and shall also be jointly and severally liable for any loss or damage resulting therefrom;

(b) any prohibition imposed by or under this Act in respect of one of the partners shall apply to all the partners and to the partnership even where the act prohibited or restricted, or giving rise to the prohibition or restriction, is done by one of the partners;

(c) any act or thing that may be done by a warrant holder may be done by one or more of the partners in the name of the partnership; and any act or thing done in the name of the partnership shall be done by one or more of the partners;

(d) the responsibilities and liabilities for anything done or omitted to be done during the period in which a person was a partner in a partnership of engineers shall not cease, in respect of such person, by his retirement, death or other cause by which he ceases to be a partner.

10. (1) Every warrant holder or partnership registered under this Act shall be covered by an indemnity insurance by such company, in such manner and for such amount as may be prescribed against any liability which the warrant holder or the partnership may incur for compensation in respect of loss or damage to any person as a result of any negligent act, error or omission committed by the warrant holder, the partnership, any partner thereof or any of the employees, as well as against any claim in respect of any loss or damage brought about or contributed by a criminal or malicious act or omission of any of their employees:

Indemnity insurance by warrant holder and by partnership of engineers.

Provided that the provisions of this subsection shall not apply to warrant holders who are and for as long as they are employed with the Government in a civil or military capacity in respect of their official duties.

(2) Every warrant holder or partnership of engineers bound to be covered by an indemnity insurance under this section shall each year within a week of taking out or renewing such indemnity insurance inform the Board in writing of the name of the insurance company and the relative number of the insurance policy.

Prohibited agreements.

11. (1) Any agreement or arrangement purporting to exempt a warrant holder or a partnership of engineers from any liability, responsibility or duty under this Act or under any other law, or to relieve them therefrom or, except under an indemnity insurance as provided under section 10 of this Act, to indemnify them against any such liability, responsibility or duty shall be null and void.

(2) Any agreement or other arrangement whereby a warrant holder or a partnership of engineers agrees to pay, directly or indirectly, to any person any commission, brokerage fee, share of professional fees, or any other form of reward or remuneration for obtaining or having obtained any professional work shall be null and void.

Disqualification of warrant holder.

Cap. 9.

12. (1) A conviction by any competent tribunal for any crime liable to imprisonment for a term exceeding one year, other than involuntary homicide or any other crime against the person excusable in terms of the Criminal Code, shall be a cause of perpetual disability to obtain or retain the warrant.

(2) Such disability shall be declared by the Minister by notice published in the Gazette and shall be communicated to the person disqualified, unless he has been interdicted by the sentence itself.

(3) The Minister may, at any time, and if the Board so recommends, by order remove the disability declared by him.

Surrender of warrant, special licence or registration of partnership.

13. (1) A warrant, a special licence or a registration of a partnership of engineers issued, granted or made under the provisions of this Act may be withdrawn or cancelled by the Minister at the request of the warrant holder, licensee or partnership as the case may be.

(2) Notwithstanding the foregoing, a fresh warrant, special licence or registration of a partnership of engineers may be issued, granted or made at any time if the conditions for such issue or registration are satisfied.

Suspension or revocation of warrant, special licence or registration of partnership.

14. The Minister may, by order in writing, suspend, revoke or cancel a warrant, a special licence or registration of a partnership of engineers, if the warrant holder, licensee or any one of the partners, as the case may be —

(a) has been found guilty, after an inquiry by the Board, of any of the following acts or omissions —

(i) dishonesty, misconduct or gross negligence in the exercise of his profession;

(ii) conduct discreditable to the profession;

(iii) failure to comply with regulations with respect to professional standards or practices;

(iv) failure to comply with any condition attached to a warrant issued under the provisions of section 16 of this Act; or

(b) has been found guilty by a competent court of an offence under the provisions of this Act or of any regulations made thereunder; or

(c) without prejudice to the provisions of section 12 of this Act, has been found guilty by a competent court of a crime affecting public trust or of theft or of fraud or of knowingly receiving property obtained by theft or fraud.

15. Where a warrant or special licence issued under this Act is withdrawn, suspended or revoked, the person to whom the warrant or licence was issued shall cease to be the holder of such warrant or licence; and upon the cancellation of the registration of a partnership of engineers the members of that partnership shall cease to act in the name and on behalf of the partnership and the partnership shall cease to use the designation "Inġinier" or the corresponding abbreviation "Ing.".

Effects of revocation or suspension of warrant, special licence, or registration of partnership.

16. The Minister may, after the expiration of one year from the date of the revocation or withdrawal of a warrant or special licence or the cancellation of a partnership of engineers, and if the Board so recommends, issue a fresh warrant or special licence or authorise the registration of a partnership of engineers under the provisions of this Act, subject to such conditions as he may deem necessary.

Minister may issue fresh warrant.

17. A warrant holder shall be remunerated for such specific professional services as may be prescribed, solely by such fees and under such rules as may be prescribed.

Remuneration of warrant holders.

18. (1) The Minister may, after consulting the Board, recognise an association of warrant holders, to be known as the Chamber of Professional Engineers.

Chamber of Professional Engineers.

(2) Whenever the number of members of that Chamber is not less than two-thirds of the total number of warrant-holders the Minister may recognise a code of ethics submitted to him by that Chamber and such code of ethics shall regulate the professional behaviour of warrant holders which is not already prescribed.

(3) The Minister may at any time amend any part of or withdraw his recognition of such code of ethics after giving due notice thereof.

19. (1) Any person who, for the purpose of obtaining the warrant, special licence or registration of a partnership of engineers under the provisions of this Act, gives any wrong information or otherwise acts in a deceitful or fraudulent manner shall be guilty of an offence and shall on conviction be liable to a fine (*multa*) not exceeding one thousand liri (Lm1000) or to imprisonment not exceeding twelve months or to both such fine and imprisonment.

Offences.

(2) Any person who, not being the holder of a warrant, assumes or uses the designation "Inginier" or its abbreviation "Ing.", or in any manner indicates that he is entitled to exercise the profession of engineer shall be guilty of an offence and shall on conviction be liable to a fine (*multa*) not exceeding one hundred liri (Lm100) and in respect of a second or subsequent offence to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(3) Any person who uses the designation "Inginiera" in relation to a partnership of engineers knowing that such partnership is not registered in accordance with the provisions of this Act, or in any manner whatsoever knowingly makes use of a name falsely implying the existence of a partnership of engineers registered as aforesaid shall be guilty of an offence and shall on conviction be liable to a fine (*multa*) not exceeding two hundred liri (Lm200) and in respect of a second or subsequent offence to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(4) Any person who, not being the holder of a warrant or a special licence in accordance with the provisions of this Act, practises the profession of engineer shall be guilty of an offence and shall on conviction be liable to a fine (*multa*) of not less than two hundred liri (Lm200) but not exceeding four hundred liri (Lm400), and in respect of a second or subsequent offence to a fine (*multa*) of not less than three hundred liri (Lm300) but not exceeding five hundred liri (Lm500) or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(5) Any person who contravenes the provisions of section 10 of this Act shall be guilty of an offence and shall on conviction be liable to a fine (*multa*) of not less than two hundred liri (Lm200) but not exceeding five hundred liri (Lm500) and in the case of a continuing offence to an additional fine (*multa*) of thirty liri (Lm30) for each day during which the offence continues.

Additional provisions with respect to offences.

20. (1) The provisions of this Act establishing offences and punishments in respect thereof shall not affect the operation of any other law establishing offences and punishments in respect of the same acts or omissions and shall not, in particular, affect the application of any higher punishment under any other law.

Act XII of 1957.

(2) The provisions of the Probation of Offenders Act, 1957, shall not apply to this Act.

(3) For the purposes of subsections (2) and (3) of section 19 of this Act the use on any card, letterhead, sign, board, plate, advertisement or other written, printed or engraved device, instrument or document, of the word "Inginier" or its abbreviation "Ing." in relation to a name, shall be sufficient evidence of the knowledge of such use by the person in relation to whose name the said word or abbreviation is used, unless such person proves that the use of such word or abbreviation was made without his knowledge and that upon becoming aware of the use he took adequate steps to stop it.

(4) For the purposes of this Act —

(a) a person shall not be deemed to practise the profession of engineer if he acts simply as an employee of or, assistant to, a warrant holder or a partnership of engineers, and does not issue any certification of an engineering nature under his name;

(b) to the extent that is so prescribed, a person shall not be deemed to exercise the profession of engineer if he is in such employment or holds or acts in such office, or performs only such work, services, acts or functions as may be prescribed.

21. The Minister may, after consulting the Board, make Regulations. regulations to give effect to any of the provisions of this Act and generally to regulate the profession of engineering, and, without prejudice to the generality of the foregoing, such regulations may in particular include provisions with respect to —

(a) the establishment of engineering standards, procedures and other duties and practices to be followed by warrant holders either generally or in particular fields of activity;

(b) the professional conduct of warrant holders and the standards of competency and integrity to be kept by the profession;

(c) the issue of guidelines and other advice to engineers;

(d) the work which cannot be performed and services which cannot be rendered, whether wholly or in part, except by warrant holders under this Act;

(e) the work which cannot be performed and services which cannot be rendered by warrant holders under this Act;

(f) the fees that may be charged by warrant holders or by a partnership of engineers for specific services; the authority, if any, by which any dispute concerning such fees may be settled and the procedure to be followed by any such authority;

(g) the fees that may be charged for the issue of a warrant or special licence or for the registration of a partnership of engineers or for copies thereof;

(h) the procedure to be followed by the Board in connection with its functions under paragraphs (b) and (c) of subsection (1) of section 7 of this Act; and the powers which that Board shall have to carry into effect those functions;

(i) the punishments, penalties and other consequences and effects to which a person may become liable or which may take place in the event of any contravention of, or non-compliance with, the provisions of any regulation under this section; so however that no punishment so imposed shall exceed a fine (*multa*) of one thousand liri (Lm1000) or imprisonment for a term of one year, or of both such fine and imprisonment, or in the case of a continuing offence, a fine (*multa*) of ten liri (Lm10) for each day during which

the offence continues, whether or not in addition to the punishments aforesaid;

(j) the forms of reports or information which a warrant holder or a partnership of engineers may be required to furnish to the Minister or to the Board;

(k) any matter which is required or is authorised by this Act to be prescribed.

Applicability
of this Act.

22. This Act shall apply only to the Engineering profession in the fields of Mechanical Engineering and Electrical Engineering:

Provided that the Minister may from time to time by Order extend the applicability of this Act to other fields of the Engineering Profession.

Passed by the House of Representatives at Sitting No. 69 of the 16th February, 1988.

JIMMY FARRUGIA
Speaker

P. MUSCAT TERRIBILE
Acting Clerk to the House of Representatives.