

A BILL

*i n t i t u l e d*

An Act to amend the Registration of Engineers Act 1967.

[ ]

**ENACTED** by the Parliament of Malaysia as follows:

**Short title and commencement**

1. (1) This Act may be cited as the Registration of Engineers (Amendment) Act 2014.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

**General amendment**

2. The Registration of Engineers Act 1967 [*Act 138*], which is referred to as the “principal Act” in this Act, is amended by substituting for the words “registered Engineer” and “registered Engineers” wherever appearing, except in the definition of “registered Engineer” in section 2 and subsection 24A(1), the words “registered Person” and “registered Persons” respectively.

**Amendment of section 2****3. Section 2 of the principal Act is amended—**

(a) by inserting after the definition of “appointed date” the following definition:

‘ “Architect” has the same meaning assigned to it in the Architects Act 1967 [Act 117];’;

(b) by inserting after the definition of “Engineering consultancy practice” the following definitions:

‘ “Engineering Technologist” means a person registered under section 10c;

“Engineering works” means all works which include any publicly or privately owned public utilities, buildings, machines, equipment, processes, works or projects that require the application of engineering principles and data;’;

(c) by deleting the definition of “firm or body corporate practising as consulting Quantity Surveyors”;

(d) by inserting after the definition of “Graduate Engineer” the following definition:

‘ “Inspector of Works” means a person registered under section 10E;’;

(e) by inserting after the definition of “Minister” the following definition:

‘ “Practising Certificate” means a certificate issued by the Board to a Professional Engineer under section 10D;’;

(f) by deleting the definition of “Professional Architect”;

(g) by inserting after the definition of “Professional Engineer” the following definition:

‘ “Professional Engineer with Practising Certificate” means a person registered under section 10D;’;

(h) by inserting after the definition of “Professional Engineer with Practising Certificate” the following definition:

‘ “Professional Quantity Surveyor” has the same meaning assigned to it in the Quantity Surveyors Act 1967 [Act 438];’;

(i) by substituting for the definition of “registered Engineer” the following definition:

‘ “registered Engineer” means a Graduate Engineer, Professional Engineer, Professional Engineer with Practising Certificate or Accredited Checker;’;

(j) by inserting after the definition of “registered Engineer” the following definition:

‘ “registered Person” means a registered Engineer, Engineering Technologist or Inspector of Works;’;

(k) by deleting the definition of “registered Quantity Surveyor”;  
and

(l) by deleting the definition of “Temporary Engineer”.

### **Amendment of section 3**

**4.** Section 3 of the principal Act is amended—

(a) in paragraph (2)(a), by inserting after the words “Professional Engineer” the words “or a Professional Engineer with Practising Certificate”;

(b) in paragraph (2)(b), by inserting after the words “Professional Engineers” the words “and Professional Engineers with Practising Certificates”;

(c) in subsection (3)—

(i) by substituting for paragraph (a) the following paragraph:

- “(a) three Professional Engineers and two Professional Engineers with Practising Certificates who are in the public service of the Federation;”;
- (ii) in paragraph (c), by inserting after the words “Professional Engineers” the words “with Practising Certificates”; and
- (iii) in paragraph (d), by substituting for the words “not more than two Professional Engineers” the words “a Professional Engineer and a Professional Engineer with Practising Certificate”;
- (d) by inserting after subsection (3) the following subsection:
- “(3A) Where the Council of the Institution of Engineers (Malaysia) referred to in paragraph (2)(b) does not submit a nomination list within thirty days before the expiry of the term of office of the five members of the Board nominated by the Council of the Institution of Engineers (Malaysia), the Minister shall appoint any person qualified as a member of the Board.”;
- (e) in subsection (7), by deleting the word “First”; and
- (f) by inserting after subsection (7) the following subsection:
- “(8) The Minister may, by order published in the *Gazette*, amend the Schedule.”.

#### **Amendment of section 4**

**5.** Section 4 of the principal Act is amended in subsection (1)—

- (a) by substituting for paragraph (ed) the following paragraph:
- “(ed) to appoint a committee consisting of persons to be determined by the Board—

- (i) to conduct professional assessment examinations for the purpose of admission as a Professional Engineer; or
  - (ii) to conduct professional competency examinations for the purpose of issuing a Practising Certificate to the Professional Engineer;”;  
and
- (b) by inserting after paragraph (ef) the following paragraph:

“(eg) to cause examinations to be conducted by an institution recognized by the Board for the purpose of admission to the profession;”.

### **Amendment of Part III**

6. The principal Act is amended in the title of Part III by inserting after the word “ENGINEERS” the words “, ENGINEERING TECHNOLOGISTS AND INSPECTORS OF WORKS”.

### **Amendment of section 5**

7. Section 5 of the principal Act is amended—

(a) in subsection (1)—

- (i) by substituting for the words “The Register shall be in five Parts, that is to say—” the words “The Register shall contain the following:”;
- (ii) by deleting paragraph (c);
- (iii) by deleting the word “and” at the end of paragraph (d);
- (iv) by substituting for the full stop at the end of paragraph (e) a semicolon; and
- (v) by inserting after paragraph (e) the following paragraphs:

- “(f) Part F— which shall contain the names, addresses and other particulars of Professional Engineers with Practising Certificates;
  - (g) Part G— which shall contain the names, addresses and other particulars of Engineering Technologists; and
  - (h) Part H— which shall contain the names, addresses and other particulars of Inspectors of Works.”; and
- (b) in subsection (2), by substituting for the words “subsection 7A(3), 7B(1) or 10A(1),” the words “subsection 7A(3) or 7B(1), section 10C, 10D or 10E,”.

### **Amendment of section 6**

8. Subsection 6(2) of the principal Act is amended by substituting for the words “the name, address,” the words “or by any other media including electronic media as the Board may deem fit, the name,”.

### **Amendment of section 7**

9. Section 7 of the principal Act is amended—

- (a) in subsection (1)—
  - (i) in paragraph (a), by deleting the words “practice, carry on business or”;
  - (ii) by inserting the word “or” at the end of paragraph (b);
  - (iii) by deleting paragraph (c); and
  - (iv) by substituting for paragraph (d) the following paragraph:
    - “(d) use the stamp as may be determined by the Board.”;

(b) by inserting after subsection (1) the following subsections:

“(1A) A person shall not, unless he is a Professional Engineer with Practising Certificate—

(a) practise, carry on business or take up employment which requires him to carry out or perform professional engineering services for designated engineering works subject to section 8;

(b) be entitled to describe himself or hold himself out under any name, style or title—

(i) bearing the words “Professional Engineer with Practising Certificate” or equivalent in any other language; or

(ii) bearing any other words in any language which may reasonably be construed to imply that he is a Professional Engineer with Practising Certificate;

(c) use or display any sign, board, card or other device representing or implying that he is a Professional Engineer with Practising Certificate;

(d) be entitled to recover in any court any fee, charge, remuneration or other form of consideration for any professional engineering services rendered subject to section 8; or

(e) use the stamp as may be determined by the Board.

(1B) A person shall not, unless he is a Graduate Engineer or Engineering Technologist, be entitled to describe himself or hold himself out under any name, style or title using the abbreviation “Grad.Eng.” or “Eng.Tech.” after his name or in any way associate with his name.”; and

(c) in subsection (2)—

- (i) by substituting for the words “subsection (1)” the words “subsections (1) and (1A)”;
- (ii) by substituting for paragraph (a) the following paragraph:

“(a) a Graduate Engineer who is registered with the Board may, subject to section 8, take up employment which requires him to perform professional engineering services;”;
- (iii) by deleting the word “and” at the end of paragraph (a); and
- (iv) by inserting after paragraph (a) the following paragraphs:

“(aa) an Engineering Technologist who is registered with the Board may, subject to section 8, take up employment which requires him to perform professional engineering services;

(ab) an Inspector of Works who is registered with the Board may, subject to section 8, take up employment which requires him to assist the Professional Engineer in the supervision of engineering works; and”.

#### **Amendment of section 7A**

**10.** Section 7A of the principal Act is amended—

- (a) in subsection (1), by substituting for the words “subsection 7(1)” the words “subsections 7(1) and (1A)”;
- (b) in subsection (3)—
  - (i) in paragraph (a), by inserting after the words “Professional Engineer” the words “with Practising Certificate”;

- (ii) in paragraph (b), by inserting after the words “Professional Engineers” the words “with Practising Certificates”; and
- (iii) in paragraph (c)—
  - (A) by deleting the words “, it”;
  - (B) by substituting for subparagraph (i) the following subparagraph:
    - “(i) it has a board of directors who shall be subject to such conditions and qualifications as may be prescribed by the Board;”;
  - (C) by substituting for subparagraph (ii) the following subparagraph:
    - “(ii) its shareholdings shall be as may be prescribed by the Board”;
  - (D) in subparagraph (iii)—
    - (aa) by inserting before the word “has” the word “it”; and
    - (bb) by substituting for the full stop at the end of the subparagraph the words “; and”; and
  - (E) by inserting after subparagraph (iii) the following subparagraph:
    - “(iv) the day-to-day affairs of the body corporate shall be under the control and management of a person who—
      - (A) is a Professional Engineer with Practising Certificate; and

(B) is authorized under a resolution of the board of directors of the body corporate to make all final engineering decisions on behalf of the body corporate in respect of the requirements under this Act or any other law relating to the supply of professional engineering services by the body corporate.”; and

(c) in subparagraph (6)(a)(i), by substituting for the words “at least five members of the Board” the words “a Disciplinary Committee appointed by the Board pursuant to section 14A”.

### **Amendment of section 7B**

**11.** Section 7B of the principal Act is amended—

(a) in the shoulder note—

(i) by inserting after the word “**providing**” the words “**a combination of services comprising**”; and

(ii) by deleting the words “**and**”;

(b) in subsection (1)—

(i) by inserting after the words “a practice of providing” the words “a combination of services comprising”; and

(ii) by deleting the words “and”;

(c) in subsection (2)—

(i) by substituting for paragraph (a) the following paragraph:

“(a) it has a board of directors who shall be subject to such conditions and qualifications as may be prescribed by the Board;”;

- (ii) by substituting for paragraph (b) the following paragraph:

“(b) its shareholdings shall be as may be prescribed by the Board;”;

- (iii) in paragraph (c), by substituting for the words “to be determined by the Minister.” the words “as may be prescribed by the Board; and”;

- (iv) by inserting after paragraph (c) the following paragraph:

“(d) the day-to-day affairs of the body corporate shall be under the control and management of a person who—

(i) is a Professional Engineer with Practising Certificate; and

(ii) is authorized under a resolution of the board directors of the body corporate to make all final engineering decisions on behalf of the body corporate in respect of the requirements of this Act or any other law relating to the supply of professional engineering services by the body corporate.”.

- (d) by substituting for subsection (3) the following subsection:

“(3) The minimum shareholdings of a Professional Engineer, Architect and Professional Quantity Surveyor in the body corporate shall be as may be prescribed by the Board.”.

## **Amendment of section 8**

### **12. Section 8 of the principal Act is amended—**

- (a) in the shoulder note, by inserting after the words “**Professional Engineer**” the words “**with Practising Certificate**”;

- (b) in subsection (1), by inserting after the words “Professional Engineer” the words “with Practising Certificate”;
- (c) in subsection (2)—
- (i) by inserting after the words “a Professional Engineer” the words “with Practising Certificate”;
  - (ii) by deleting the words “or 10A(1)”;
  - (iii) by substituting for the words “the Professional Engineer including the Professional Engineer” the words “the Professional Engineer with Practising Certificate including the Professional Engineer”;
- (d) in subsection (3), by inserting after the words “Professional Engineer” the words “with Practising Certificate”; and
- (e) in subsection (4)—
- (i) by inserting the word “and” at the end of paragraph (a);
  - (ii) by substituting for the semicolon at the end of paragraph (b) a full stop; and
  - (iii) by deleting paragraphs (c) and (d).

### **New section 8A**

**13.** The principal Act is amended by inserting after section 8 the following section:

**“Plan or drawing which a Professional Engineer may submit**

**8A.** (1) A Professional Engineer may submit plans or drawings to any person or authority in Malaysia where such plans or drawings are in relation to an equipment, a plant or a specialised product invented or sold by him or his employer.

(2) The employer referred to in subsection (1) shall not include a client.”.

**Deletion of section 9**

**14.** The principal Act is amended by deleting section 9.

**Amendment of section 10**

**15.** Section 10 of the principal Act is amended—

(a) in paragraph (1)(b), by substituting for the word “prescribed” the word “determined”;

(b) in subsection (2)—

(i) by substituting for paragraph (i) the following paragraph:

“(a) any person—

(i) who is registered as a Graduate Engineer and has obtained the practical experience under paragraph (1)(b);

(ii) who—

(A) has passed a professional assessment examination conducted by the Board;

(B) holds a professional qualification which the Board considers to be equivalent to the professional assessment examination conducted by the Board; or

(C) is a Corporate Member of the Institution of Engineers (Malaysia); and

- (iii) who has complied with the requirements as determined by the Board;”; and
- (ii) by renumbering the existing paragraphs (ii), (iii) and (iv) as paragraphs (b), (c) and (d) respectively;
- (c) in subsection (3), by substituting for the words “2(iv)” the words “2(d)”;
- (d) by substituting for subsection (4) the following subsection:

“(4) No person shall be entitled to be registered as a Professional Engineer with Practising Certificate unless he is at the time of application for or renewal of registration, and has been for a period of not less than six months prior to the date of application or renewal, residing in Malaysia.”.

#### **Deletion of section 10A**

16. The principal Act is amended by deleting section 10A.

#### **Amendment of section 10B**

17. Paragraph 10B(1)(a) of the principal Act is amended by inserting after the words “Professional Engineer” the words “with Practising Certificate”.

#### **New sections 10C, 10D and 10E**

18. The principal Act is amended by inserting after section 10B the following sections:

##### **“Registration of Engineering Technologist**

- 10c. (1) A person who holds any qualification which is recognized by the Board shall be entitled on application to be registered as an Engineering Technologist.

(2) A person who is registered as an Engineering Technologist under subsection (1) shall be entitled on application to be registered as a Graduate Engineer upon fulfilling the requirements under subsection 10(1).

### **Registration of Professional Engineer with Practising Certificate**

**10D.** A person shall be entitled on application to be registered as a Professional Engineer with Practising Certificate if—

- (a) the person is a registered Professional Engineer;
- (b) the person has passed a professional competency examination conducted by the Board; and
- (c) the person has complied with the requirements as determined by the Board.

### **Registration of Inspector of Works**

**10E.** A person who holds any qualification which is recognized by the Board shall be entitled on application to be registered as an Inspector of Works.”.

### **Amendment of section 13**

**19.** Section 13 of the principal Act is amended—

- (a) in subsection (2), by inserting after the words “Graduate Engineer” the words “and Engineering Technologist”;
- (b) by inserting after subsection (2) the following subsection:

“(3) A certificate of registration—

- (a) issued to an Inspector of Works shall expire on the 31 December of the third year from the date the certificate of registration is issued; and

- (b) may be renewed upon the expiry of the certificate of registration on payment of the prescribed fee and upon satisfying such conditions as may be determined by the Board.”.

#### **Amendment of section 14**

**20.** Section 14 of the principal Act is amended by inserting after the words “business address” the words “within three months of the change”.

#### **New section 14A**

**21.** The principal Act is amended by substituting for section 14A the following section:

##### **“Disciplinary Committee**

**14A.** (1) The Board shall appoint a Disciplinary Committee which shall consist of the following members:

- (a) a Chairman who shall be a registered Professional Engineer with Practising Certificate;
- (b) a registered Professional Engineer; and
- (c) a registered Professional Engineer with Practising Certificate.

(2) The members of the Disciplinary Committee shall have been registered as Professional Engineers for a period of not less than seven years prior to their appointment to the Disciplinary Committee.”.

#### **Amendment of section 15**

**22.** Subsection 15(2) of the principal Act is amended by substituting for the words “paragraphs (1)(b) to (d), or paragraph (1)(f) to (o)” the words “subsection (1) except for circumstances in paragraphs (1)(a), (e), (f) and (fb)”.

**Amendment of section 16**

**23.** Paragraph 16(b) of the principal Act is amended by inserting after the words “a Graduate Engineer,” the words “Engineering Technologist,”.

**Amendment of section 17**

**24.** Section 17 of the principal Act is amended—

(a) in subsection (2), by inserting after the words “a Graduate Engineer,” the words “Engineering Technologist,”;

(b) in subsection (2A)—

(i) by inserting after the words “a Graduate Engineer,” the words “Engineering Technologist,”; and

(ii) by substituting for the words “consecutively” the words “after its expiry”;

(c) by substituting for subsection (3) the following subsection:

“(3) A registered Person or Engineering consultancy practice whose name has been removed from the Register pursuant to an order of the Disciplinary Committee or the Board under subsection 15(1A) or 7A(5) respectively, and who has not appealed against that order or whose appeal has been dismissed may, after the expiration of not less than six months from the date of the order of cancellation or from the date of the decision of the appeal, apply for reinstatement.”; and

(d) by inserting after subsection (3) the following subsection:

“(4) The Board shall issue a certificate of registration to the registered Person or Engineering consultancy practice upon—

(a) receipt of satisfactory evidence for his or its reinstatement;

- (b) satisfying such conditions as may be determined by the Board;
- (c) reimbursement to the Board of all expenditure incurred arising out of the proceedings leading to the cancellation of his or its registration; and
- (d) payment of the prescribed fee.”.

**Amendment of section 19**

25. Paragraph 19(1)(b) of the principal Act is amended by substituting for the words “10A(1)” the words “10D”.

**Amendment of section 24A**

26. Subsection 24A(1) of the principal Act is amended by substituting for the words “registered Engineer” the words “Professional Engineer with Practising Certificate”.

**Amendment of section 24B**

27. The principal Act is amended by substituting for subsection (1) the following subsection:

“(1) For the purposes of subsection 15(3), the Board shall appoint an Investigating Committee which shall consist of the following members:

- (a) a Chairman who shall be a registered Professional Engineer with Practising Certificate; and
- (b) two other members, one of whom shall be a Professional Engineer with Practising Certificate.”.

**Amendment of First Schedule**

28. The First Schedule to the principal Act is amended by substituting for the title “First Schedule” the title “Schedule”.

## **Deletion of Second Schedule**

**29.** The principal Act is amended by deleting the Second Schedule.

## **Saving and transitional**

**30.** (1) A Temporary Engineer who is registered under the principal Act, before the date of the coming into operation of this Act, may continue to carry out or perform professional engineering services until the expiry of the certificate of registration issued under the principal Act.

(2) In relation to a Professional Engineer registered under the principal Act, where he applies to be registered as a Professional Engineer with Practising Certificate within one year from the date of the coming into operation of this Act, or any period as may be extended by the Board, he shall be exempted from the provision of paragraph 10D(b).

(3) Any application for the certificate of registration pending on the date of the coming into operation of this Act shall be dealt with under the principal Act as amended by this Act.

(4) The stamp as prescribed in the Second Schedule to the principal Act shall continue to be used until replaced by such stamp as may be determined by the Board after the date of the coming into operation of this Act.

(5) Upon the coming into operation of this Act—

(a) all investigations, proceedings, including disciplinary proceedings, and matters relating to such investigations and proceedings existing and pending under the principal Act shall continue and be dealt with under the principal Act as if it had not been amended by this Act;

(b) all investigations, proceedings, including disciplinary proceedings, and matters relating to such investigations and proceedings which could have been commenced or instituted under the principal Act before the coming into operation of this Act shall be commenced, instituted and dealt with under the principal Act as if it had not been amended by this Act; and

- (c) any such right, privilege, obligation, liability, penalty, or punishment acquired, accrued or incurred under the principal Act, may be continued, enforced, imposed and be dealt with, as the case may be, as if the principal Act had not been amended by this Act.

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#### EXPLANATORY STATEMENT

This Bill seeks to amend the Registration of Engineers Act 1967 (“Act 138”). The proposed amendments seek to primarily liberalise the engineering profession in Malaysia and to provide for related matters.

2. *Clause 1* provides for the short title and the power of the Minister to appoint the commencement date of the proposed Act.
3. *Clause 2* seeks to provide for the general amendment by substituting the words “registered Engineer” and “registered Engineers” wherever appearing in Act 138.
4. *Clause 3* seeks to amend section 2 of Act 138 to introduce new definitions and to amend existing definitions used in Act 138.
5. *Clause 4* seeks to amend section 3 of Act 138 to require certain members of the Board to be from amongst registered Professional Engineers with Practising Certificates. Where the Council of the Institution of Engineers (Malaysia) fails to nominate any Professional Engineer with Practising Certificate as members of the Board within thirty days before the expiry of the term of office of members of the Board, the Minister is empowered to proceed with the appointment of the members of the Board under this *clause*.
6. *Clause 5* seeks to amend section 4 of Act 138 to enable the Board to appoint a committee to conduct a professional assessment examination for admission as a Professional Engineer and to conduct a professional competency examination for issuance of a Practising Certificate to a Professional Engineer.
7. *Clause 7* seeks to amend section 5 of Act 138 to include the particulars of the Professional Engineers with Practising Certificates, Engineering Technologists and Inspectors of Works in the Register.
8. *Clause 8* seeks to amend section 6 of Act 138 to allow the Registrar to publish in any other media including electronic media other than the *Gazette* and national newspaper the particulars of a registered Person whose registration has been suspended, cancelled, removed and reinstated under Act 138.
9. *Clause 9* seeks to amend section 7 of Act 138 to provide for restrictions on a Professional Engineer with Practising Certificate, Graduate Engineer, Engineering Technologist and Inspector of Works relating to the performance of professional engineering services and the use of any name, style or title to describe or hold himself out as a registered Person under Act 138.

10. *Clauses 10 and 11* seek to amend sections 7A and 7B of Act 138 respectively to provide for matters relating to Engineering consultancy practice and professional engineering services and for certain matters to be prescribed in the regulations.

11. *Clause 12* seeks to amend section 8 of Act 138 to provide that only a Professional Engineer with Practising Certificate and an Engineering consultancy practice may submit plans, drawings *etc.*, to any person or authority in Malaysia.

12. *Clause 13* seeks to introduce a new section 8A into Act 138 to enable a Professional Engineer to submit plans or drawings where such plans or drawings are in relation to an equipment, a plant or a specialised product invented or sold by him or his employer to any person or authority in Malaysia.

13. *Clause 15* seeks to amend section 10 of Act 138 to remove the requirement that only a citizen or a permanent resident shall be entitled to be registered as a Professional Engineer. The proposed amendments seek to allow foreign engineers holding a qualification which is recognized by the Board to be registered as Professional Engineers with Practising Certificates.

14. *Clause 16* seeks to delete section 10A of Act 138 relating to the registration of foreign engineers as Temporary Engineers since it is no longer relevant with the amendment to section 10 of Act 138.

15. *Clause 17* seeks to amend section 10B of Act 138 to allow a Professional Engineer with Practising Certificate to be registered as an Accredited Checker.

16. *Clause 18* seeks to introduce new sections 10C, 10D and 10E into Act 138 to provide for the registration of Engineering Technologists, Professional Engineers with Practising Certificates and Inspectors of Works respectively.

17. *Clause 19* seeks to amend section 13 of Act 138 to provide for the renewal of the certificate of registration issued to the Inspector of Works by the Registrar.

18. *Clause 20* seeks to amend section 14 of Act 138 to require the registered Person to notify the Registrar of any change of business address.

19. *Clause 21* seeks to amend section 14A of Act 138 to enable the Board to appoint members of the Disciplinary Committee.

20. *Clause 24* seeks to amend section 17 of Act 138 to enable the Board to impose certain conditions for reinstatement of a person whose name has been removed from the Register.

21. *Clause 27* seeks to amend section 24B of Act 138 to enable the Board to appoint members of the Investigating Committee.

22. *Clause 28* seeks to delete the Second Schedule to Act 138 consequential to the amendment to section 7 of Act 138. The new paragraph 7(1)(d) of Act 138 provides for the use of the stamp as may be determined by the Board.

23. *Clause 30* contains saving and transitional provisions and provides for the continuance of proceedings under Act 138 as if Act 138 had not been amended.

24. Other amendments not specifically dealt with in this Statement are minor or consequential in nature.

*FINANCIAL IMPLICATIONS*

This Bill will not involve the Government in any extra financial expenditure.

[PN(U2)2845]