

ANTIGUA AND BARBUDA CONTRACTORS ASSOCIATION DRAFT

(REGISTRATION) ACT, 2001

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement.
2. Interpretation.
3. Establishment of Board.
4. Contractors' register.
5. Registration.
6. Qualifications for Registration.
7. Registration of Certain Existing Contractors.
8. Privileges of Registration.
9. Corrections of Register.
10. Partnerships, Associations or Corporations.
11. Disciplinary Procedure.
12. Disciplinary Powers of Board.
13. Appeals.
14. Offences.
15. Regulations.

SCHEDULE

ANTIGUA AND BARBUDA

No. of 1992

BILL FOR

AN ACT to provide for the registration, practice, and discipline of contractors and matters connected therewith of incidental thereto.

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ENACTED by the parliament of Antigua and Barbuda as follows:-

Short Title and Commencement

1. This Act may be cited as the Contractors (Registration) Act, 1992, and comes into operation on a date to be appointed by the Minister by notice published in the Gazette.

Interpretation

2. In this Act-
 - i. "Board" means the Contractors' Registration Board established under section 3;
 - ii. "Chairman" means the Chairman of the Board;
 - iii. "Contractor" means a person who contracts to be responsible for the construction of any building, road, bridge, dredging or a combination of any works relating to Construction and the term "contract" shall be construed accordingly;
 - iv. "Minister" means the Minister responsible for Trade;
 - v. "Register" means the register of the contractors kept by the Registrar in terms of section 4;
 - vi. "Registrar" means the Registrar of the High Court.

Establishment of Board

3. (1) For the purpose of this Act, there is established a Board to be known as the Contractors' Registration Board which shall be a body corporate to which the provision of section 22 of the Interpretation Act, 1982 shall apply.

(2) The provisions of the Schedule shall have effect with respect to the constitution of the Board and otherwise in relation thereto.

Contractors' register

3. (1) The Register shall keep a register to be known as the Contractors' Register in which he shall cause to be entered the names of every person entitled to be registered as a contractor under section 5 or 6 together with the following particulars in respect of each person-
- a. His full name and address;
 - b. The date of his registration; and
 - c. His registration number.
- (2) The register shall at all reasonable times be open to inspection at the Registration Office.
- (3) The Board shall in consultation with the Registrar cause to be published in the Gazette-
- a. In the month of February in every year an alphabetical list of persons who have as at the 31st January in the registered their names as contractors;
 - b. As soon as practicable after such registration the name of any person registering his name as a contractor after the 31st January in any year.
- (4) After the commencement of the Act, every person who is qualified to be registered as a contractor under this Act and desires to practice as such in Antigua and Barbuda, shall in the month of January in every year cause his name to be entered by the Registrar in the register and on payment of the prescribed fee shall be entitled to obtain a certificate of such registration.

Registration

5. (1) Any person who on application in writing to the Board satisfies the Board:-
- a. He is qualified to be registered as a contractor;

- b. He is not less than twenty- four (24) years of age;
and
- c. He is fit and proper person to practice as a Contractor in Antigua and Barbuda;
- d. May be registered as a contractor under this section

Qualifications for Registration

- 6. For the purposes of subsections 5 (1) (a) as person is qualified to be registered as a Contractor if-
 - a. He is resident in Antigua and Barbuda;
 - b. He has proof of at least two previous contracts to construct which he undertook successfully;
 - c. He possesses post primary qualifications;
 - d. He has not been declared bankrupt in terms of the Bankruptcy Act;
 - e. He obtains at least two persons as sureties who are persons of good reputation and with responsibility in his usual area of operation.

Registration of Certain Existing Contractors

- 7. (1) Notwithstanding section 6 (b) and (c), any person who does not possess the qualifications specified in that section, but who, on application made to the Board within one year of the commencement of this Act, satisfies the Board that-
 - a. He has not less than ten (10) years experience as a Contractor and has proof of it;
 - b. He is a fit proper person to be registered as a contractor;
 - c. May be registered as a contractor.
- (2) In determining whether a person satisfies the requirements of subsection (1) the Board may conduct such investigation relating to the experience in contracting of such person as it considers necessary and may

require such person to appear before the Board to assist the Board in its investigation.

Privileges of Registration

8. (1) Subject to subsection (2) a person registered under this Act shall be entitled-

- a. On payment of the prescribed fee to receive from the Registrar a certificate in the form approved by the Board to practice as a Contractor in Antigua and Barbuda;
- b. To demand and recover reasonable remuneration for service rendered in accordance with his contracts;
- c. To use the title "Contractor" or any abbreviation thereof against his name.

(2) For the avoidance of doubt, the provisions of this Act do not entitle any person registered under this Act but not under-

ACT 37 OF 1986

- a. The Engineers (Registration) Act, 1986, to practice as an Engineer in terms of the Engineers' (Registration) Act or carry out any engineering work as defined in the Engineers' (Registration) Act; or

ACT 38 OF 1986

- b. The Architects' (Registration) Act, 1986, to practice as an Architect in terms of the Architects' (Registration) Act, or carry out any Architecture work as defined under that Act.

ACT 38 OF 1986 Corrections of Register

9. The Registrar shall-

- a. Delete from the register the names of all persons registered under this Act who are deceased or are no longer qualified to practice as contractors;

- b. Restore to the register any entry which the Board, pursuant to this Act, direct him to restore;
- c. Cause to be made in the register such alterations and additions relating to particulars of registered contractors as may from time to time be necessary.

Partnerships, Associations or Corporations

10. A partnership, association or corporation may contract in its own name-
- a. If one of its principal and customary functions is to contract; and
 - b. If the contracting is done under the responsibility and supervision of a member of the partnership or association or a director of the corporation, or a full time employee of the partnership, association or corporation, who in any case is a registered contractor.

Disciplinary Procedure

11. (1) The Board shall where necessary appoint a Disciplinary Committee and determine its Constitution and procedure on its appointment.
- (2) The Board may make rules for regulating the presentation, hearing, and determination of matters by the Disciplinary Committee for reports to the Board.

Disciplinary Powers of the Board

12. On receipt of a report from the Disciplinary Committee the Board may, as it thinks just, make any such other as to-
- a. Striking off the register the name of the registered person to whom the report relates, or suspending him from practice on such conditions as the Board may determine, or imposing on him such fine the Board may think proper, or subjecting him to reprimand.

- b. The payment by any party of costs of such sum as they may consider reasonable contribution towards costs;
- c. The payment by the registered person of any such sum by way of restitution or compensation as they may consider reasonable.

Appeals

13. An appeal against any decision made by the Board shall lie to a Judge in Chambers, and every such appeal shall be made within such a time and in such form and shall be heard in such manner as may be prescribed by rules of Court.

Offences

14. (1) Any person who-
- a. Fraudulently procures or attempts to procure the registration under this Act of himself or any other person by making or producing or causing to be made or produced any false or fraudulent representation or declaration either orally or in writing.
 - b. Fraudulently makes, causes or permits to be made-
 - i. Any false or incorrect entry or copy in the register; or
 - ii. Any alteration in any entry or copy of any entry in the register
 - iii. Make use of the names or titles of contractor or any other name, title, addition, designation or description implying that he is a registered contractor or is entitled to be recognized as a contractor in Antigua and Barbuda, when not so entitled whether not being registered under this Act or having been put in suspension or had his certificate cancelled is guilty of an offence.

(2) A person who is guilty of an offence under this section is liable on summary conviction-

- a. For a first offence to a fine of five (5) thousand dollars and to imprisonment for a term of six (6) months; and
- b. For each subsequent offence to a fine of ten (10) thousand dollars and to Imprisonment for a term of one (1) year.

Regulation

15. (1) The Minister may, in consultation with the Board, make regulations generally or giving effect to the purposes and provisions of this Act and in particular but without prejudice to the generality of the foregoing may make regulations in relation to all or any of the following-

- a. Prescribing the form of and the method of keeping the register;
- b. Prescribing the form of applications, certificates, and other documents required under this Act;
- c. Prescribing the fees payable in respect of registration, alterations to the register, certifications, in section of register and any other matter under this Act.
- d. Regulating the procedure of the Board or its Committees whether in relation to disciplining of contractors of otherwise;
- e. Prescribing fines not exceeding \$5000 and in the case of continuing offence a further fine not exceeding \$200 for every day during which the offence continues, for the breach of any regulation;
- f. Providing for a code of professional conduct for contractors;
- g. Providing for the surrender of seals and certificates of registration.

- (2) They shall be paid from the funds of the Board to the Chairman and other members of the Board such remuneration, whether by way of honorarium, salary, or fees and such allowances as the Minister may determine.

(Section 3)

SCHEDULE
Constitution and Procedures of the Board

1. (1) The Board shall consist of the following
- a. Six members, being contractors appointed by the Minister acting on the advise of the Antigua and Barbuda Contractors Association, absence of such association with any person recognized by the Minister as representing contractors;
 - b. The Director of Public Works
- (2) The appointment of all members of the Board shall be for a period of two years, but any such members to be Chairman of the Board.

Chairman

2. The Board members shall elect one of its members to be Chairman of the Board.

Resignation

3. (1) Any member of the Board may at any time resign his office as by instrument in writing addressed to the Minister and transmitted through the Chairman and from the date of receipt by the Minister of such instrument such member shall cease to be a member of the Board.
- (2) The Chairman of the Board may at any time resign his office as Chairman by instrument in writing addressed to the Minister [board] and such resignation shall take effect as from the date of receipt by the Minister [board] of such instrument.

Filing of Vacancies

4. If any vacancy occurs in the membership of the Board such vacancy shall be filled by the appointment of another member who shall, subject to the provision of this Schedule, hold office for the remainder of the period for which the previous member was appointed so, however, that the appointment shall be made in the same manner and from the same category of persons, if any, as the appointment of the previous member was appointed so, however, that the appointment shall be made in the same manner and from the same category of persons, if any, as the appointment of the previous member.

Publications of Membership in the Gazette

5. The names of all the members of the Board as first constituted and every change in the membership thereof shall be published in the Gazette.
6. (1) The Seal of the Board shall be kept in custody of the Chairman or the Secretary thereof and shall be affixed on instruments pursuant to a resolution of the Board in the presence of the Chairman or any other two members of the Board.

(2) The Seal of the Board shall be authenticated by the signature of the Chairman or any person performing the duties of the Chairman and shall be officially and judicially noticed.

(3) All documents, other than those required by law to be under seal, made by, and all decisions of the Board may be signified under the hands of the Chairman, or any other member authorized to act in that behalf, or the Secretary.

Meetings

7. (1) The Board shall meet at such times as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times and on such days as the Board may determine.

(2) The Chairman may at any time call a special meeting of the Board and shall call a special meeting within seven days of the receipt of a written request for that purpose addressed to him by any three members of the Board.

(3) The Chairman of the Board shall preside at all meetings of the Board at which he is present, and in the case of the Chairman's absence from any meeting the members present and constituting a quorum shall elect a Chairman from among their number to preside at that meeting.

- (4) The quorum of the Board shall be four.
- (5) The decisions of the Board shall be by a majority of votes and, in addition to an original vote, the person presiding at a meeting shall have a casting vote in any case in which the voting is equal.
- (6) Minutes in proper form of each meeting of the Board shall be kept.
- (7) The validity of the proceedings of the Board shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of member thereof.
- (8) Subject to the provision of this Schedule the Board may regulate its own proceedings.

Committee

8. (1) The Board may appoint such Committee as it may think fit and may delegate to any such Committee the power and authority to carry out on its behalf such duties as the Board determine, so, however, that no such Committee shall have the power to make rules.
- (2) The constitution of each Committee shall be determined by the Board.

Protection

9. (1) No member of the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board.
- (2) Where any member of the Board is exempt from liability by reason only of the provisions of this paragraph the Board shall be liable to the extent that it would be if the member were a servant or an agent of the Board.