

CHAPTER 138

THE VALUATION AND VALUERS REGISTRATION ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 138

THE VALUATION AND VALUERS REGISTRATION ACT

An Act to provide for powers and functions of Chief Valuer of the Government; to establish the Valuers Registration Board; to provide for the functions and management of the Board; to provide for regulation and control of valuation profession and practice; and to provide for related matters.

[1st January, 2017]

[GN. No. 1 of 2017]

Act No.
7 of 2016

PART I

PRELIMINARY PROVISIONS

- Short title **1.** This Act may be cited as the Valuation and Valuers Registration Act.
- Application **2.** This Act shall apply in Mainland Tanzania.
- Interpretation **3.** In this Act, unless the context otherwise requires-
- “association” means an association formed by persons practising valuation and allied practice;
 - “Assistant Chief Valuer” means a person appointed as Assistant Chief Valuer of the Government pursuant to section 8;
 - “Authorised valuer” means a valuer authorised under section 10 to carry out valuation functions;
 - “Board” means the Valuers Registration Board established under section 12;
 - “certificate” means a practising certificate issued under this Act;
 - “Chairman” means the Chairman of the Board and includes a Vice Chairman or a person appointed to act as such;

- Cap. 113
- “Chief Valuer” means the person appointed as Chief Valuer of the Government pursuant to section 5;
- “client” means a person who requests valuation to be carried out by a registered valuer under this Act;
- “comparable property” means a property that shares common features with the property under valuation;
- “Government valuer” means a valuer employed by the Government and who discharge duties pursuant to section 9;
- “land” has the same meaning ascribed to it by the Land Act;
- “market value” means the estimated amount for which an asset should exchange on the date of valuation between a willing buyer and a willing seller after proper marketing wherein the parties had each acted knowledgeably, prudently, and without compulsion;
- “Minister” means the Minister responsible for lands;
- “property” means interests, rights and benefits related to the ownership of physical land and improvements thereon, or movable assets;
- “registered valuer” means a person registered as valuer to carry out valuation under this Act;
- “Registrar” means a Registrar of the Board appointed pursuant to section 23;
- “technician valuer” means a person who is enlisted as technician valuer under this Act;
- “valuation” means a process in which the value of an interest in property is assessed by the valuer;
- “valuation practice” means a system where a valuer determines value of an interest in landed and nonlanded property, business, ownership or user rights;
- “valuer” means a person who hold at least a first degree in real estate or equivalent qualification with specialisation in valuation.

PART II

THE CHIEF VALUER

Chief Valuer **4.** There shall be a Chief Valuer within the Ministry responsible for lands who shall be responsible for advising the Government on all matters relating to valuation practice and activities.

Appointment of Chief Valuer **5.**—(1) The Chief Valuer shall be appointed by the President.
(2) A person is qualified to be appointed as Chief Valuer if that person—
(a) holds at least masters degree or equivalent qualification in valuation from a recognised institution;
(b) is a fully registered valuer;
(c) have experience in the field of valuation for not less than ten years; and
(d) is of a proven probity.

Powers and functions of Chief Valuer **6.**—(1) The Chief Valuer shall be the principal advisor to the Government on all matters relating to valuation, and the Head of the Valuation Department within the Ministry, and shall have the following functions:
(a) to advise the Government on valuation matters and activities, including valuation rates in purchase and dispose of Government properties;
(b) to carry out valuation of properties or other assets upon request from the Government, institutions, individuals and members of the public;
(c) to carry out research and maintain a valuation data bank for the use by valuers and members of the public;
(d) to prepare and maintain a database on property transaction or related data relating to the Government;
(e) to prepare and submit to the Minister, quarterly reports on valuation activities;
(f) notify the Board or other relevant authority on any professional misconduct committed by a registered or enlisted valuer;

- (g) manage complaints arising out of Government valuation;
 - (h) to carry out or cause to be carried out, oversee and approve or endorse all valuation reports prescribed under this Act; and
 - (i) to perform any other function as may be assigned by the Minister.
- (2) In performing functions under subsection (1), the Chief Valuer shall have powers to-
- (a) impose fees in respect of services rendered by Government valuers as may be prescribed by the Minister;
 - (b) recommend to the relevant disciplinary authority, measures to be taken against Government valuer or enlisted valuer; and
 - (c) appoint or approve valuers for specific valuation assignment as may be required.
- (3) The Chief Valuer shall perform functions and exercise powers under this Act in a manner which-
- (a) promotes transparency and public confidence;
 - (b) does not allow any other interest to compromise or in any other way jeopardise the integrity of the valuation profession; and
 - (c) manifests fairness and impartiality to all without due regard to ones social or economic status.

Verification of
valuation report

- 7.-(1) Where the Chief Valuer is satisfied that the valuation was not properly conducted, he may-
- (a) disapprove the valuation report; or
 - (b) visit the property which is a subject of valuation for the purpose of verification.
- (2) Where, upon verification of the valuation under subsection (1), the Chief Valuer is satisfied that the valuation is not in compliance with valuation guidelines, he may-
- (a) recommend to the relevant disciplinary authority on measures to be taken against such registered valuer; or

- (b) assign another registered valuer to conduct valuation on the property.

Appointment of
Assistants Chief
Valuer
Cap. 298

8.—(1) There shall be such number of Assistants Chief Valuer who shall be appointed through recruitment procedures in terms of the Public Service Act, and who shall assist the Chief Valuer in the performance of his functions under this Act.

(2) A person is qualified to be appointed as an Assistant Chief Valuer if that person is a valuer who possesses qualification set out in section 5(2).

(3) An Assistant Chief Valuer shall be responsible to the Chief Valuer and shall perform functions as may be assigned to him by the Chief Valuer.

(4) Assistants Chief Valuer shall be located in such zonal offices or in any areas as the Chief Valuer may determine

Government
valuers
Cap. 298

9.—(1) There shall be Government valuers who shall be appointed or employed in accordance with the Public Service Act, and who shall undertake valuation functions in the public sectors in the Ministries, Departments, Government Institutions and local government authorities.

(2) The Government valuers shall practice valuation under directives and supervision of the Chief Valuer.

(3) Without prejudice to subsection (1), the Government valuer may also conduct valuation in private sector upon request by the private individual, or entity.

Authorised
valuers

10.—(1) For the better and effective carrying out his functions under this Act, the Chief Valuer may appoint any fully registered valuer to be an authorised valuer.

(2) Authorised valuers shall be responsible for discharging functions in such regions or districts as the Chief Valuer may prescribe in the letter of appointment.

(3) In performing functions under this Act, an authorised valuer shall be responsible to Assistant Chief Valuer.

(4) An appointment of authorised valuer under this section shall be published in the *Gazette*.

Power to delegate **11.**—(1) For purposes of effective carrying out of his functions under this Act, the Chief Valuer may delegate his functions to Assistant Chief Valuer or authorised valuer appointed under this Act.

(2) Any such delegation may be made in respect of any particular matter or any class of matters or generally or may be limited to any part of Mainland Tanzania.

(3) A delegation made under this section shall be revocable at will and shall not prevent the exercise or performance of any powers, duties or functions of the Chief Valuer.

PART III VALUERS REGISTRATION BOARD

Establishment of Board **12.**—(1) There shall be established a Board to be known as the Valuers Registration Board.

(2) The Board shall be a body corporate with perpetual succession, common seal and in its name, be capable of—

- (a) suing and being sued;
- (b) acquiring, holding and disposing of real and personal property;
- (c) entering into any contract or other transaction, and doing or suffering to do all such other acts and things which a body corporate may lawfully do; and
- (d) exercising the powers and performing the functions conferred to it under this Act.

(3) Notwithstanding subsection (2), the Attorney General through the Solicitor General, shall have the right to intervene in any suit or matter instituted by or against the Board.

(4) Where the Attorney General intervenes in any suit or matter, the provisions of the Government Proceedings Act shall apply in relation to the proceedings of that suit or matter as if the suit or matter had been instituted by or against the Government.

(5) For purposes of subsection (3), the Board shall have the duty to notify the Attorney General on any impending suit or matter by or against the Board.

(6) Procedure for the conduct of business by the Board shall be as stipulated in the First Schedule.

Composition of
Board

13.—(1) The Board shall consist of not more than nine members appointed by the Minister as follows:

- (a) the Chairman;
- (b) a senior registered valuer from the Ministry responsible for lands;
- (c) one registered valuer working with the local government nominated by the Ministry responsible for local government;
- (d) two representatives of an association of valuers;
- (e) a representative of institutions of higher learning offering valuation profession training;
- (f) a Law Officer nominated by the Attorney General;
- (g) an accountant specialised in finance nominated by the National Board of Accountants and Auditors; and
- (h) a representative of the Tanzania association of Bankers.

(2) Except for a member nominated under paragraphs (f), (g) and (h) of subsection (1), a person shall not be appointed to the Board unless he is a professional valuer registered under this Act.

(3) The Chairman shall be appointed after a competitive recruitment process to be undertaken by the Ministry.

(4) In appointing members of the Board under subsection (1), the Minister shall consider skills, experience and gender representation.

(5) Registrar shall be the secretary to the Board.

(6) The Board may co-opt any person to assist the Board on deliberation of any issue or matter that requires the person's skills, expertise or advice, but the co-opted person shall have no right to vote in any meeting of the Board.

Functions of
Board

- 14.-(1)** The Board shall perform the following functions:
- (a) register valuers and enlist technician valuers under this Act;
 - (b) issue certificate to persons qualified to practice valuation;
 - (c) evaluate academic and practical qualification for the purposes of registration;
 - (d) publish in the *Gazette* and a daily news paper of wide circulation in each year, a list containing the name, address and qualifications of all registered valuers on the Register;
 - (e) exercise effective disciplinary control over the professional ethics and conduct of valuation practice;
 - (f) promote and encourage educational advancement with regard to the practice of the valuation profession;
 - (g) in matters relating to valuation practise, to receive and determine complains raised from Chief Valuer, practising valuers of the Government and general public;
 - (h) consult with institutions that train valuers and associations with the view to ensuring adherence to rules of best practice;
 - (i) organise courses, conferences, seminars, discussions and consultations on matters relating to valuation;
 - (j) create enabling environment that facilitates professional advancement of registered valuers;
 - (k) conduct regular Continuing Professional Education;
 - (l) arrange for publication and dissemination of materials regarding the practice of valuation;
 - (m) ensure that valuation practice is undertaken in conformity with laid down valuation standards;
 - (n) conduct regular quality control of valuations carried out by practising valuers at a frequency determined by the Board, and take appropriate actions; and
 - (o) to carry out such other functions as the Minister may direct.

(2) In performing its functions under subsection (1), the Board shall-

- (a) instill confidence in the operations and management of the valuation profession;
- (b) ensure that the operation of valuation practice is performed with uniform and by honest and competent persons;
- (c) protect the interests of consumers of valuation services;
- (d) enhance public knowledge, awareness and understanding of the valuation with particular reference to-
 - (i) the rights and obligations of consumers of and valuers as providers of valuation services; and
 - (ii) the ways in which complaints and disputes may be resolved.

Committees of Board

15.-(1) For purpose of effective carrying out its functions under this Act, the Board may form such number of committees.

(2) Without prejudice to subsection (1), the committees shall include-

- (a) Technical Committee;
- (b) Continuing Professional Education and Examinations Committee;
- (c) Ethics and Disciplinary Committee;
- (d) Arbitration Committee; and
- (e) any other committee that the Board may appoint

Power to delegate functions

16.-(1) The Board may delegate its functions under this Act to the Committee of the Board:

Provided that, such delegation shall not be made by the Board on functions or duties relating to-

- (a) admission of applicants for registration;
- (b) approval of annual budgets, work programmes or accounts; and
- (c) disciplinary measures of valuers.

(2) Without prejudice to the provisions of subsection (1), the Committee may co-opt members out of the Board for the purposes of discharge of its duties.

Power to conduct inquiries

17.–(1) The Board may, on its own motion or upon directives in writing by the Minister, conduct an inquiry on a specific subject matter prescribed by the Minister or where the Board considers it necessary or desirable for the purpose of carrying out its functions.

(2) The Minister may specify in a direction under subsection (1) time within which the Board shall submit its report on the inquiry and the Board shall submit its report to the Minister within that time.

(3) Where the inquiry is intended to involve the public, the Board shall issue notice of such inquiry in the *Gazette* and in a newspaper of wide circulation in Mainland Tanzania specifying the purpose of the inquiry, the time within which submission may be made to the Board, the form or manner in which submission shall be made, the subject matter of the inquiry and the source of such inquiry.

(4) For the purpose of the proceedings at any inquiry to be held by the Board-

- (a) the Chairman shall administer oaths in accordance with the provisions of the Oath and Statutory Declaration Act and in the name of the Board, issue summons under his hand directing the person named to attend at the time and place mentioned and give evidence or produce documents specified in the notice;
- (b) the Board shall have power to make any such order as to payment by any party of any costs or witnesses expenses as it may think fit;
- (c) any person who is not satisfied with the decision of the Board may, within twenty one days from the date of the decision, appeal to the High Court;

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- (d) subject to the preceding provisions of this section and to any rules made therein, the Board shall have power, at any inquiry by the Board to regulate its own procedure; and
- (e) the Board may direct the publication in such terms and manner as it may think fit, of a report of any inquiry held by the Board.

Secrecy

18. Except for the purposes of the performance of his functions, when so required by law or authorised by the Board or Chief Valuer, a member of the Board, staff of the Board or registered valuer shall not disclose any information relating to valuation report in respect of a client acquired in the course of employment or the discharge of his duties.

Unfair
competition in
valuation practice

19.-(1) The Board shall deal with all competition issues which may arise in the course of performance of valuation functions, and may investigate and report on such issues to the Fair Competition Commission or any other relevant authority in relation to-

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- (a) any contravention of the Fair Competition Act;
- (b) actual or potential competition in any market for services provided by valuers; and
- (c) any detriment likely to result to the members of the public.

(2) The Board shall, in conducting investigation under this section, take into account-

- (a) whether the conditions for effective competition exist in relation to the provision of services by way of valuation work in the market;
- (b) whether any exercise by the Board of its powers is likely to cause any lessening of competition or additional costs in valuation and is likely to be detrimental to the public;
- (c) whether any such detriment to the public is likely to outweigh any benefits to the public resulting from the exercise of its powers by the Board.

Practice, ethics
and conduct

20. Every registered valuer or enlisted valuer shall have the obligation to conduct affairs of the profession with the highest degree of honesty, skill and integrity and shall be required to observe the code of conduct and ethics prescribed under this Act.

Investigation of
complaints

21.—(1) Where a complaint is lodged to the Board against any registered valuer or enlisted valuer, the Board may cause an investigation to be conducted into such complaint by the Ethics and Disciplinary Committee of the Board.

(2) The Ethics and Disciplinary Committee shall conduct a preliminary investigation in a manner it sees fit and submit to the Board the investigation report.

(3) The Ethics and Disciplinary Committee may, in the process of investigation, invite any person to provide expertise as may be required.

Decision by
Board

22.—(1) The Board may, upon receiving a report from the Ethics and Disciplinary Committee—

- (a) consider the report and determine the matter; or
- (b) cause the inquiry to be conducted into the matter.

(2) The Board may make rules prescribing the conduct of investigation and inquiry under this Act.

Appointment
and functions of
Registrar

23.—(1) The Minister may, after consultation with a Board, appoint a fully registered valuer to be the Registrar.

(2) The Registrar shall be the Chief Executive Officer, and shall be responsible for the day to day management of activities of the Board.

(3) The Registrar shall hold office for a term of three years, and may, subject to his satisfactory performance, be eligible for reappointment for one further term of three years.

(4) Functions of the Registrar shall be to—

- (a) effect registration of valuers and enlistment of technician valuers as approved and directed by the Board;
- (b) prepare various reports and other document on valuation matters for deliberation by the Board;
- (c) arrange and keep minutes of the Board;

- (d) keep and maintain the Register under the directives of the Board;
- (e) effect suspension or cancellation of certificates issued to registered valuers and enlisted technicians as directed by the Board;
- (f) facilitate communication on behalf of the Board between the Board and valuers, Chief Valuers and other institutions;
- (g) issue valuation certificate after approval of the Board; and
- (h) perform other functions as may be specified by the Board.

(5) In performing functions under this Act, the Registrar shall be responsible to the Board.

Secretariat

24.—(1) There shall be the Secretariat of the Board composed of the Registrar and such number of staff appointed or employed on such terms as the Board shall direct.

(2) Staff appointed or employed under this Act shall be responsible to the Registrar and shall discharge such functions as the Registrar may determine.

PART IV REGISTRATION OF VALUERS

(a) *General Requirements*

Prohibition for practising as valuer without certificate

25.—(1) A person or firm shall not undertake any activity relating to valuation under this Act without a certificate issued by the Board.

(2) A person or firm who contravenes this section commits an offence and on conviction, shall be liable to-

- (a) in the case of an individual, a fine of not less than five million shillings and not exceeding twenty million shillings, or to imprisonment for a term of not less than two years but not exceeding five years, or to both;
- (b) in the case of body corporate, a fine of not less than twenty million shillings.

Application and qualifications for registration of valuers

26.—(1) A person who wishes to be registered as a valuer under this Act shall apply to the Board in a prescribed form and upon payment of a prescribed fee.

(2) A person shall be eligible to be registered as valuer under this Act if the person-

- (a) is a holder of at least a first degree in real estate or equivalent qualification, with specialisation in valuation from a university or institute recognised by the Board as furnishing sufficient guarantee of the possession of the requisite knowledge and skill for the practice of valuation; and
- (b) has complied with such addition requirements relating to the acquisition of practical experience in valuation and any other additional requirements specified by the Board.

(3) A firm shall be eligible to be registered as a consulting firm if-

- (a) is incorporated or registered under the Companies Act or the Business Names (Registration) Act, as the case may be;
- (b) at least two principals of the firm are registered with the Board as registered valuers.

(4) The Board may require an applicant for registration under this section to satisfy the Board that his professional and general conduct renders him fit and proper person to be registered.

(b) Categories of Valuers Registration

Categories of registration

27.—(1) Registration of valuers shall be based on the following categories:

- (a) full registration;
- (b) temporary registration;
- (c) provisional registration; and
- (d) any other additional category or categories as the Board may prescribe.

(2) The Board may set additional qualification necessary for registration in each category.

Full registered
valuer

28. A person may be registered as a fully registered valuer after satisfying the Board that the person has-

- (a) met the conditions of registration prescribed under section 26(2);
- (b) three or more years of practical experience;
- (c) passed examinations conducted by the Board; and
- (d) is a citizen of Tanzania.

Temporary
registered valuer

29.-(1) A person may be registered as a temporarily registered valuer after satisfying the Board that the person-

- (a) is not a citizen of Tanzania;
- (b) has met the conditions of registration prescribed under section 26(2);
- (c) intends to be employed in Tanzania as a valuer for purpose of carrying out a specific valuation assignment for a period not exceeding one year;
- (d) is of good standing and is fully registered valuer in a home country or in any prior country of practice.

(2) The Board may require an applicant for registration under this section to appear before it or produce documents relating to his education, work or employment, or other matter relevant to the application.

(3) The registration of a person under this section shall be valid only while the person is engaged on the specific assignment in question, or for the period specified by the Board, as the case may be, and on his ceasing to be so engaged or on the expiry of the period, his registration shall cease to have effect.

(4) A person registered under this section shall be considered as registered in relation to the duration of the specific assignment or the period specified by the Board and to activities done in the course of such assignment.

Provisionally
registered valuer

30.—(1) A person shall be eligible for registration under this category if that person—

- (a) is the holder of a degree in real estate with specialisation in valuation from a university or institute recognised by the relevant authority;
- (b) does not have practical experience that may qualify him to be fully registered under this Act; and
- (c) has complied with any additional requirements as may be specified by the Board.

(2) A person registered under this section shall work under supervision of a fully registered valuer or temporarily registered valuer for not less than three years, and shall not be allowed to endorse valuation report.

(c) Granting and Refusal of Application

Grant of
Practising
Certificate

31. Where the Board is satisfied that an applicant has met all requirements for registration under this Act and is qualified for registration, the Board shall, within sixty days from the date of receiving application, direct the Registrar to enter the particulars of the applicant in the Register and proceed to issue the successful applicant with a practising certificate.

Refusal of
application

32.—(1) The Board may refuse an application if—

- (a) an application is defective in material particular;
- (b) the applicant has provided false or misleading information;
- (c) the applicant was convicted of any criminal offence relating to corruption, tax evasion or any other related offence and sentenced to imprisonment for a term of six months or more.

(2) Where the Board has refused an application, the Board shall within seven days from the date of its decision, notify the applicant in writing stating the reasons for such refusal.

Appeal to
Minister

33.—(1) An applicant who is not satisfied with the decision of the Board may, within twenty one days from the date of receiving notification under section 32(2), appeal to the Minister.

(2) On receipt of the appeal, the Minister shall, within thirty days consider and determine the appeal.

(3) In determining the appeal, the Minister may-

- (a) uphold, quash or vary the decision of the Board;
- (b) require the Board to revise or review its decision;
- (c) require the Board to inquire into specific information from the appellant and make further consideration of the application.

(4) Where the Minister upholds, quashes or varies the decision of the Board, he shall give reasons for the decision and communicate such decision to the parties.

Validity of practising certificate

34.-(1) A practising certificate shall bear the date on which it is issued and shall have effect from that date.

(2) The practising certificate shall be valid for one year and may be renewed upon payment of prescribed fees and fulfillment of such other requirements as may be prescribed by the Board.

(3) The Registrar shall cause to be published in the *Gazette* and a newspaper of wide circulation, the name and address of a valuer in respect of whom a certificate has been issued.

Renewal of certificate

35.-(1) The holder of a certificate granted under this Part may apply to the Board for renewal.

(2) On receipt of an application under subsection (1), the Board may renew the certificate upon-

- (a) payment of renewal fee; and
- (b) fulfillment of such terms and conditions applicable for grant of certificate.

(d) Rights, Privileges, Designation of valuers and Enlistment

Rights and privileges of registered valuer

36. A registered valuer who is granted a practising certificate shall be entitled to practice valuation for gain, demand, sue for and recover in any court charges for any valuation service rendered or supplied by him.

Designation upon registration **37.**—(1) A professional valuer shall, so long as the validity of his registration subsists, be entitled to be addressed as, and to adopt and use the style and title-

(a) in the case of a registered valuer registered under section 28 “Fully Registered Valuer”;

(b) in the case of a registered valuer registered under section 29, “Temporarily Registered Valuer”; and

(c) in the case of a registered valuer registered under section 30, “Provisionally Registered Valuer”;

or such other style and title as the Board may approve.

(2) A person shall not be allowed to take or use any title or description other than that of registration.

Enlisting of valuers

38.—(1) Subject to this Act, a person shall not offer assistance in inspection, carrying out valuation or preparation of valuation report unless the person has been enlisted by the Board.

(2) A person is qualified to be enlisted under this section if the person has-

(a) a diploma or certificate in real estate with specialisation in valuation from a recognised institution; and

(b) complied with any additional requirements as the Board may determine.

(3) Upon enlisting of a valuer and payment of the prescribed fees, the Registrar shall issue a certificate of enlisting in the prescribed form.

(4) The Registrar shall cause to be published in the *Gazette*, as soon as practicable after enlisting, the particulars entered in the list in respect of each person and, subject to the directions of the Board, any amendment or revocation of the particular in the list.

(5) Every enlisted valuer shall, so long as validity of his enlistment subsists, be entitled to be addressed as, and adopt the style and title of “Technician Valuer”.

(e) Register

Register

39.—(1) The Registrar shall keep and maintain the Register of all registered valuers and firms in accordance with the provisions of this Act and directives of the Board.

(2) The Register for valuers shall contain the following entries—

- (a) registration numbers;
- (b) the name and postal address of the registered valuer;
- (c) the qualifications of the registered valuer;
- (d) the date of the entry in the Register;
- (e) the category in which the registered valuer is registered;
- (f) duration of registration where applicable; and
- (g) any other information as may be prescribed by the Registrar.

(3) The Register for firms shall contain—

- (a) name of the firm;
- (b) date of entry;
- (c) registration number;
- (d) postal and physical address;
- (e) date and number of certificate of incorporation or registration; and
- (f) any other additional information as the Board may prescribe.

Publication of
list of registered
valuers

40. The Registrar shall annually, publish in the *Gazette* and a newspaper of wide circulation, a list of all registered and enlisted valuers appearing in the Register.

Inspection of
Register

41. The Register shall be a public document and any person may inspect the Register and obtain from the Registrar a copy, an extract or any document from the Register upon payment of a prescribed fee.

Registration
of documents
received in
evidence

42.—(1) The Registrar's records, lists, copies, or extracts which have been duly certified by the Registrar shall be received as public documents in all courts, tribunals or other bodies authorised to receive evidence of the facts stated therein.

(2) In any legal proceedings to which a registered valuer is not a party, the Registrar shall not be compelled to-

- (a) produce the Register or any document if its contents may be proved under subsection (1); or
- (b) appear as a witness to prove any entry in the Register, the matters recorded in the Register or any document, unless for special cause or orders.

(f) Suspension, Cancellation and Publication of Certificates

Suspension of certificate

43. The Board may administer, caution, censure or order suspension of practising certificate of any registered valuer who after due inquiry by the Board-

- (a) is found guilty of professional misconduct;
- (b) has failed to meet conditions for continuing professional education as prescribed by the Board; or
- (c) has failed to comply with terms and conditions of the certificate.

Cancellation of practising certificate

44.-(1) The Board may cancel practising certificate of a valuer if the valuer-

- (a) has requested his name to be removed from the Register;
- (b) has completed a valuation assignment for which temporary registration was requested;
- (c) is convicted of a criminal offence, relating to corruption, tax evasion or any other related offence and sentenced to imprisonment for a term of six months or more;
- (d) is declared bankrupt by a court of competent jurisdiction or under any written laws;
- (e) has committed gross professional misconduct as determined by the Board;
- (f) is, subject to medical recommendation, incapable to continue practising valuation; or
- (g) is dead.

(2) Except where the registered person is dead or has requested his certificate to be cancelled, a certificate shall not be cancelled unless thirty days notice issued by Registrar is served to the registered valuer to show cause as to why his certificate should not be cancelled.

(3) Cancellation of the practising certificate shall be *prima facie* evidence that such valuer is no longer registered.

(4) A valuer who is aggrieved with the decision of the Board to suspend or cancel certificate may, within thirty days from the date of such decision, appeal to the Minister who shall determine the appeal within thirty days.

Publication of suspension or cancellation of certificate

45.—(1) Where a practising certificate of a registered valuer has been suspended or cancelled, the Registrar shall cause a note of the suspension or cancellation to be entered against the name of the registered valuer in the Register and be published in *Gazette*.

(2) Where the suspension or cancellation is lifted, the Registrar shall cause a note of lifting the suspension or cancellation to be entered against the name of the registered valuer on the Register and be published in *Gazette*.

Publication as evidence of holding practising certificate

46.—(1) A list published in the *Gazette* by the Registrar containing names of registered valuers who have certificates for the current year shall, until the contrary is proved, be evidence that the persons named in the list as registered valuers hold the certificate for that current year.

(2) The absence from any such list of the name of any person shall, until the contrary is proved, be evidence that, that person is not a registered valuer for that current year, but in the case of any such person an extract from the Register certified as correct by the Registrar shall be evidence of the facts appearing in the extract.

PART V

GUIDANCE ON VALUATION PRACTICE

Guidance on valuation practice **47.** A registered valuer or person practising valuation shall comply with guidance on valuation practice set out under this Part and regulations made under this Act.

Types of valuation **48.** For the purposes of this Act, valuations are categorised into-

- (a) statutory valuation, which is governed by a specific law, or whose instructions or procedures are a result of a legal requirement;
- (b) non-statutory valuation, which arises out of market demands or specific requirements and are not governed by any law.

Purposes of valuation **49.**-(1) A registered valuer shall, in accordance with instructions received, indicate in a valuation report the purposes for which a valuation is required.

(2) The carrying out of valuation shall be for the following purposes:

- (a) rating;
- (b) compensation;
- (c) land rent assessment;
- (d) probate and administration;
- (e) capital gains tax;
- (f) sale or purchase;
- (g) mortgage;
- (h) rental value assessment;
- (i) financial reporting;
- (j) insurance;
- (k) investment;
- (l) stock market floatation;
- (m) market value;
- (n) bail; and
- (o) any other purpose that the Board may prescribe.

Basis of Valuation **50.**—(1) In the course of undertaking valuation and preparation of valuation report, a registered valuer shall state the basis and method of valuation adopted and all assumptions used in arriving at values.

(2) For purposes of this section taking into account the scale of the exercise, bases of valuation includes-

- (a) market;
- (b) cost; and
- (c) income.

(3) Where the registered valuer relies on any additional assumption, whether basing on his own opinion or on the instructions of his client, the valuer shall state in writing such additional assumptions and reasons thereof.

Methods of valuation

51.—(1) In the valuation process, a registered valuer shall apply the appropriate method of valuation and shall include-

- (a) direct market comparative method;
- (b) replacement cost or contractors test method;
- (c) income approach or investment method;
- (d) profit method; and
- (e) residual method.

(2) Notwithstanding subsection (1), when other methods or variations are applied, the methods shall be explained and data used in the valuation shall be substantiated.

Validity of valuation

52.—(1) Valuation and valuation report prepared under this Act shall be valid for such period as the Minister may prescribe.

(2) Notwithstanding subsection (1), valuation conducted together with valuation reports prepared under this Act for purposes of compensation shall be valid for the period of two years commencing from the date of endorsement of the valuation report.

(3) The endorsement of valuation report under subsection (2) shall be effected within six months after the valuation of interest in property of the last person.

(4) Where the Chief Valuer has approved a valuation relating to compensation, the person or entity responsible shall be liable to effect prompt payment of compensation to all affected persons.

(5) A person or an entity which fails to effect prompt payment of compensation shall, in addition to the principal sum, be liable to pay an interest to be chargeable at the average percentage rate of interest offered by commercial banks on fixed deposits until such compensation is paid.

(6) Where the compensation and interest referred to in subsection (5) is not settled within two years, the valuation shall not have a legal effect and shall start afresh.

(7) The validity in respect of other purposes of valuation as provided for in section 49 shall be prescribed by the Minister in the regulations.

(8) For purposes of this section “prompt payment of compensation” means the payment of compensation within six months after approval of valuation by the Chief Valuer.

Cut off date and limitation period

53.—(1) For purposes of any valuation, the cut off date shall be the date of commencement of valuation.

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(2) The period of limitation in relation to any proceedings relating to valuation conducted under this Act shall be as prescribed in the Law of Limitation Act.

(3) Upon commencement of valuation, a person shall not add or improve anything to the land or such premises.

Best practice guidelines

54. Upon recommendation of the Board, the Minister shall, within six months after the coming into operation of this Act, prepare and publish in the *Gazette* guidelines prescribing best practice in valuation.

Access to land, buildings, etc.

55.—(1) A registered valuer may-

- (a) when necessary for the purposes of carrying out his functions under this Act, and upon prior notice to the owner or occupier of the land, building or premises,

enter into and upon any land, building or premise at all reasonable hours and inspect the same without liability for trespass;

- (b) put either verbally or in writing to the owner or his agent or the person in occupation or in charge of that land, building or premise, any relevant question to enable him to perform his functions under this Act professionally; or
- (c) inspect any document from any person for the purpose of carrying out his functions under this Act.

(2) A person who, after being informed of the intention of the registered valuer in desiring to enter and inspect the land, building or premises, or in putting the questions or in seeking to inspect such documents relevant to the performance of his functions under this Act-

- (a) refuses or fails to allow such entry or inspection;
- (b) refuses or willfully omits to answer to the best of his knowledge or belief any such question either verbally or in writing as the questioner may have requested;
- (c) willfully makes any false statement in reply to that question; or
- (d) refuses to allow such books, documents or papers to be inspected or extracts taken there from,

commits an offence and on conviction, shall be liable to a fine of not less than one million shillings but not exceeding three million shillings or imprisonment for a term of not less than twelve months but not exceeding twenty four months or to both.

Submission
of relevant
information

56.-(1) The registered valuer may require the submission to him by any person of any relevant information necessary for the carrying out of his functions under this Act.

(2) The information required under subsection (1) may include-

- (a) details of sales, purchases, results of auctions and tenders, lettings and leases; and
- (b) such other information as the registered valuer thinks necessary for the carrying out of his functions under this Act.

(3) A person who refuses to submit the information under this section within the prescribed period or willfully supplies any false information, commits an offence and on conviction, shall be liable to a fine of not less than one million shillings but not exceeding three million shillings or imprisonment for a term not less than twelve months but not exceeding twenty four months or to both.

Valuer not to act as agent for unregistered valuer

57. A registered valuer who acts as agent in any matter in a valuation for any unregistered person, and who-

- (a) permits his name, to be used by any unregistered valuer;
- (b) does any other act enabling an unqualified person to appear, act or practise in any respect as a registered valuer; or
- (c) in any way assists any unregistered valuer in any cause or matter in which he knows that such person is contravening or intends to contravene this Act,

commits an offence and shall be liable to disciplinary actions as the Board shall determine.

PART VI

FINANCIAL PROVISIONS

Sources of funds **58.**-(1) Sources of the funds of the Board shall consist of-

- (a) such sums of money as may be appropriated by the Parliament;
- (b) any sums which the Board may receive by way of grant from any organisation;
- (c) any sums which the Board may, borrow for the purposes of the Board;
- (d) any sums which shall, in any manner, become payable to or vested in the Board either under the provisions of this Act or any other written law, or incidental to the carrying out of its functions; or
- (e) subscriptions from practising valuers as may be determined by the Board.

(2) The Board may, after obtaining approval of the Minister and in consultation with the Minister responsible for finance, invest any monies in such a manner as it considers fit.

Accounts

59.—(1) The Board shall keep proper books of accounts.

(2) Subject to any directions given by the Board, the Registrar shall prepare in respect of each financial year, and not later than three months after the close of the financial year, a statement which shall include a report on the performance of the Board during that financial year.

(3) The statement prepared under subsection (2) shall comprise of—

- (a) statement of financial performance;
- (b) statement of financial position;
- (c) statement of cash flows;
- (d) statement of changes of equity; and
- (e) notes to the financial statements.

Audit

60.—(1) The accounts of the Board shall, in respect of each financial year, be audited by the Controller and Auditor-General or by an Auditor appointed by the Controller and Auditor-General.

(2) The Board shall, within three months after the close of each financial year, submit to the Controller and Auditor-General for auditing the statement of accounts described in section 59 of this Act.

(3) The Board shall, as soon as practicable but not later than two months after receiving the audited report from the Controller and Auditor-General, submit to the Minister the audited financial statements and a report of the Controller and Auditor-General on such statements.

Annual
performance
report

61. The Board shall prepare and submit to the Minister within four months after the close of each financial year, the annual report on the performance of the Board during that financial year, and the Minister shall cause a copy of the report to be laid in the National Assembly.

PART VII

GENERAL PROVISIONS

Restriction on use of title and practice by unregistered valuers

62.—(1) A person who, not being a registered or enlisted under this Act—

- (a) practises as a registered or enlisted valuer;
- (b) uses the style or title “Registered Valuer”, “Enlisted Valuer” or any other name, style, title or description implying that such person is a registered or enlisted valuer; or
- (c) holds himself out, whether directly or by implication, to be a registered or enlisted valuer;

commits an offence and on conviction, shall be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding two years or to both.

(2) Subsection (1)(a) shall not apply to—

- (a) public officer preparing reports in the course of his employment; or
- (b) person employed by a registered valuer and acting within the scope of that employment.

Certificate of valuation report

63.—(1) A registered valuer when carrying out valuation shall endorse a seal in the valuation report bearing his name, registration number, address and date, or the firm, of which he is a partner or director.

(2) Where the valuation report is not endorsed in accordance with subsection (1), that report shall be void.

Valuation fees

64.—(1) The Board shall, within one year of coming into operation of this Act, make rules to provide for valuation fees in respect of valuation services rendered by registered valuers in the private sector.

(2) A registered valuer shall not charge or accept payment of fee or other consideration in respect of valuation services which is less than that prescribed under subsection (1).

- Infringement by body corporate **65.** Where an act is done by a body corporate or by a director, officer or servant thereof, of such a nature or in such a manner as to be calculated to imply that the body corporate is qualified or recognised by law as qualified, to act as a registered valuer while it is not, the body corporate commits an offence and on conviction shall be liable to a fine not exceeding fifty million shillings.
- Preparation of Code of Ethics **66.**—(1) For the purpose of carrying out valuation with probity or in order to adhere with rules of best practice in valuation, the Board shall, within twelve months of coming into operation of this Act, prepare Code of Ethics for registered and enlisted valuers.
(2) The Code of Ethics prepared under this section shall be published in the *Gazette* and shall have a legal effect.
- Offences **67.** A person who—
(a) fraudulently makes, causes or permits to be made, any false or incorrect entry in the Register or any copy of it;
(b) fraudulently procures or attempts to procure the entry on the Register of any name or other particulars whether on his own behalf or on behalf of other person;
(c) fraudulently procures or attempts to procure a practising certificate;
(d) knowingly being unqualified to conduct valuation, attempts to carry out valuation under this Act or conduct valuation;
(e) knowingly makes any statement which is false in a material particular or misleading, with a view to gaining any advantage, concession or privilege under this Act;
(f) forges or, knowing it to be forged, utters any document purporting to be a certificate, receipt, approval or other document issued in terms of this Act;
(g) impersonates a person registered or deemed to be registered in terms of this Act;

- (h) refuses or failing without lawful cause to appear, having been duly summoned to appear, at an inquiry by the Board under this Act; or
 - (i) obstructs or hinders a member of the Board or of the Ethics and Disciplinary Committee or of any other Committee of the Board in the exercise of his powers or the performance of his functions under this Act,
- commits an offence and on conviction shall be liable to a fine of not less than five million shillings or imprisonment for a term of not less than two years or to both.

Negligence by registered valuer

68. A registered valuer whose report contains any overestimated or underestimated material particular or information obtained in the course of valuation, and as the result such report is approved or endorsed by the Chief Valuer, shall be personally liable for professional negligence arising from such overestimation or underestimation of particulars or information.

Immunity

69. A matter or thing done by a member of the Board or committee, staff of the Board, registered valuer or enlisted valuer or other person empowered to perform any function under this Act shall not, if done in good faith in execution or purported execution of his function under this Act, render the member or such person liable for matter or thing done.

Regulations

70.—(1) The Minister may, after consultation with the Board, make regulations for the better carrying out the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations prescribing for—

- (a) procedure for registration and enlistment under this Act;
- (b) procedure for registration of valuation firms under this Act;
- (c) procedures for accessing land and buildings while conducting valuations;

- (d) procedures for assessing land and property rates under singular and mass valuations;
- (e) fees and other charges to be paid or charged in respect of valuation services rendered by Government valuers under this Act;
- (f) procedure for verification of valuation under this Act;
- (g) the manner of assessing crop rates and preparation of crop schedule;
- (h) the manner of assessing crop rates and preparation of land values;
- (i) the prescribed forms to be used in carrying out different valuations;
- (j) procedure for conducting compensation, valuation and other types of valuations;
- (k) manner of assessing compensable items;
- (l) best practice rules, including guidelines on registered valuers standard of care and skill;
- (m) the manner and procedure for management of complaints and appeals under this Act;
- (n) code of measurement; and
- (o) any other matter in furtherance to the objects of this Act.

Rules

71. The Board may make rules prescribing for-

- (a) valuation standards and guidelines;
- (b) format of valuation report;
- (c) matters relating to registration of valuers;
- (d) matters relating to continuing education; and
- (e) any other matter or thing as the Board considers necessary in furtherance to provisions of this Act.

Inconsistency
with other laws

72. Where a provision of this Act is in conflict or otherwise inconsistent with the provisions of other written law on matter relating to valuation, the provision of this Act shall prevail to the extent of such inconsistency.

Savings and
transition
Cap. 270

73.—(1) A valuer who is registered under the Professional Surveyors (Registration) Act and whose practising licence is valid shall continue to practise valuation as if registered under this Act until such licence expires.

(2) A registered valuer whose practising licence was issued under the Professional Surveyors (Registration) Act shall, within three months before expiry of practicing license, apply to the Board for registration under this Act.

(3) After the commencement of this Act a valuer shall not be registered under the Professional Surveyors (Registration) Act.

Amendment of
other written
related laws

74. [Omitted]

FIRST SCHEDULE

(Made under section 12(6))

PROCEDURE OF THE BOARD

Vacancy

1.—(1) The office of a member shall become vacant if—
(a) his appointment is revoked;
(b) he resigns; or
(c) he dies.

(2) A member may resign by giving notice in writing to the Minister, and from the date specified in the notice, or if no date is specified, from the date of the receipt of the notice by the Minister, he shall cease to be a member.

Vice-Chairman

2. The members shall elect one amongst their number to be Vice-Chairman of the Board, and a member elected as Vice-Chairman, may subject to his continuing to be a member, hold office for a term of three years from the date of his election and shall be eligible for re-election.

Tenure of office of
members

3.—(1) A member shall hold office for such period as may be specified in the instrument of his appointment or if no such period is specified, for a period of three years from the date of his appointment and shall be eligible for reappointment for the period of not more than two terms.

(2) A person who is a member by virtue of his holding some other office shall cease to be a member upon his ceasing to hold the office by virtue of which he is a member.

Termination of appointment	4. Where a member of the Board absents himself from three consecutive meetings of the Board without reasonable excuse, the Board shall advise the appointing authority of the fact and the appointing authority may terminate the appointment of such member and appoint a new member in his place.
Casual vacancy	5. Where any member ceases to be a member for any reason before the expiration of his term of office, the appointing authority may appoint another person in his place and the person so appointed shall hold office for the remainder of the term of office of his predecessor.
Cessation of membership	6. Where any member of the Board ceases to be such a member by resignation or death or is unable to perform his functions as such member by reason of his absence from the United Republic or by reason of any infirmity of body or mind or where the appointing authority terminates his appointment under paragraph 2, the appointing authority may appoint another member in his place and the member so appointed shall, subject to the provisions of this Schedule, hold office for the remaining of the term of his predecessor.
Power of Chairman and Vice-Chairman	<p>7.-(1) The Chairman shall preside at all meetings of the Board.</p> <p>(2) Where at any meeting of the Board the Chairman is absent the Vice-Chairman shall preside.</p> <p>(3) In the absence of both the Chairman and Vice-Chairman at any meeting of the Board, the members present may, from amongst their number elect a temporary Chairman who shall preside at that meeting.</p> <p>(4) The Chairman, Vice-Chairman or temporary Chairman presiding at any meeting of the Board shall have a right to vote and in the event of an equality of votes, shall have a casting vote in addition to his deliberative vote.</p>
Meeting and procedure of Board	<p>8.-(1) An ordinary meeting of the Board, shall be convened by the Chairman and the notice specifying the place, date and time of the meeting shall be sent to each member at his usual place of business or residence not less than fourteen days before the date of such meeting.</p> <p>(2) The Board shall ordinarily meet four times in a year, but the Chairman may convene an extraordinary meeting when the need to do so arises.</p> <p>(3) The Chairman of the Board may invite a person who is not a member to participate in the deliberations of the Board, and that person shall not be entitled to vote.</p>
Quorum	9. The quorum at a meeting of the Board shall be two third of the members.
Decision by circulation of papers	10. -(1) Notwithstanding the provision of paragraph 7, where the Chairman so directs a decision may be made by the Board without a

meeting by circulation of the relevant papers among all members and the expression in writing of their views.

(2) A member shall be entitled to require that any such decision be deferred and such matter be considered at a meeting of the Board.

Minutes of Meetings

11.—(1) The Board shall cause to be recorded and kept minutes of all business conducted or transacted at its meetings, and the minutes of each meeting of the Board shall be read and confirmed, or amended and confirmed, at the next meeting of the Board and signed by the person presiding at the meeting.

(2) Any minutes purporting to be signed by the person presiding at a meeting of the Board shall, in the absence of proof of error, be deemed to be a correct record of the meeting whose minutes they purport to be.

Vacancies and defects not to invalidate proceedings

12. The validity of any act or proceedings of the Board shall not be affected by any vacancy among its member or by any defect proceeding in the appointment of any of them.

Orders, Directions, etc. of Board

13. All orders, directions, notices or other documents made or issued on behalf of the Board shall be signed by—

- (a) the Chairman or Vice-Chairman, as the case may be; and
- (b) the Registrar.

Proof of Documents

14. Any document purporting to be under the hand of the Chairman, Vice-Chairman or the Registrar as to any resolution of the Board or as having been issued on behalf of the Board, shall be receivable in all courts or tribunals or other bodies authorised to receive evidence and shall, unless the contrary is shown, be deemed, without further proof, to be sufficient evidence of what is contained in the document.

Authentication of seal

15. The seal of the Board shall not be affixed to any deed, document and other instruments except in the presence of the Chairman and the Registrar, or either the Chairman or the Registrar and one member of the Board as the Board may appoint in that behalf.

Remuneration of members of Board

16. A member of the Board and the Secretariat shall be entitled to such remuneration or allowances from the funds of the Board as the Minister may, after consultation with the Treasury Registrar, determine.

Execution of document

17. All documents to which the Board is a party other than documents required by law to be under seal and all decisions of the Board, may be signified under the hand of the Registrar or other officer authorised by the Registrar in that behalf.

Board may regulate proceeding

18. Subject to the provisions of this Schedule, the Board may regulate its own proceedings.

SECOND SCHEDULE

[Amend certain written laws]

[Omitted]

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