

**THE ZAMBIA INSTITUTE OF VALUATION
SURVEYORS, 2023**

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GOVERNMENT OF ZAMBIA

ACT

No. 9 of 2023

Date of Assent: 15th August, 2023

An Act to provide for the registration of valuation surveyors and regulate their practice and professional conduct; continue the existence of the Valuation Surveyors Registration Board and re-name it as the Zambia Institute of Valuation Surveyors and re-define its functions; repeal and replace the Valuation Surveyors Act; and provide for matters connected with, or incidental to, the foregoing.

[17th August, 2023

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY PROVISIONS

- | | |
|--|---|
| <p>1. This Act may be cited as the Zambia Institute of Valuation Surveyors Act, 2023.</p> | Short title |
| <p>2. In this Act, unless the context otherwise requires—</p> <p>“associate” has the meaning assigned to the word in the Anti-Corruption Act, 2012;</p> <p>“Chairperson” means the person appointed as Chairperson of the Disciplinary Committee under section 39;</p> <p>“code of ethics” means the code of ethics adopted and published by the Institute for the purposes of this Act;</p> <p>“constitution” means the constitution of the Institute adopted in accordance with section 5;</p> <p>“Council” means the Council of the Institute constituted under section 8;</p> <p>“council member” means a person elected as a council member under section 8;</p> <p>“Disciplinary Committee” means the Disciplinary Committee of the Institute constituted under section 39;</p> | Inter-pretation
Act No. 3 of
2012 |

Act No. 16 of 2011	“firm” has the meaning assigned to the word in the Registration of Business Names Act, 2011;
Act No. 4 of 2013	“Higher Education Authority” means the Higher Education Authority established under the Higher Education Act, 2013;
Act No. 4 of 2013	“higher education institution” has the meaning assigned to the words in the Higher Education Act, 2013;
	“inspector” means a person appointed as an inspector under section 46;
	“Institute” means the Zambia Institute of Valuation Surveyors established under section 3;
Cap. 31	“Law Association of Zambia” means the Law Association of Zambia established under the Law Association of Zambia Act;
Cap. 30	“legal practitioner” has the meaning assigned to the word “practitioner” in the Legal Practitioner’s Act;
Act No. 3 of 2019	“legally disqualified” means the absence of legal capacity as provided under section 4 of the Mental Health Act, 2019;
	“member” means a person registered as a member of the Institute in accordance with the provisions of the constitution and “membership” shall be construed accordingly;
	“President” means a person elected as President of the Institute under section 6;
	“Professional Conduct Committee” means an <i>ad hoc</i> Professional Conduct Committee constituted under section 36;
	“professional misconduct” means the conduct referred to under section 34;
	“real estate surveying” means an opinion of the value of an asset or liability on a stated basis, at a specified date and includes the valuation of real property interests, plant, machinery and equipment businesses and business interests, intangible assets, non-financial liabilities, inventory, development property and financial instruments;
	“Register” means the Register of the Institute referred to under section 30;
	“Registrar” means a person appointed as Registrar under section 10;

“relative” has the meaning assigned to the word in the Anti-Corruption Act, 2012;

Act No. 3
of 2012

“repealed Act” means the Valuation Surveyors Act;

Cap. 207

“valuation surveying” means a manual or electronic process of carrying out real estate valuation and includes feasibility appraisals and highest and best use of real estate management and property maintenance, land management and administration, and land development and facilities management plant and machinery and other movable assets;

“valuation surveyor” means a person qualified in the theory, practice and discipline of valuation surveying, acquired by training, education and practice, and is registered as a valuation surveyor in accordance with this Act;

“Vice-Chairperson” means the person appointed as Vice-Chairperson of the Disciplinary Committee under section 39;

“Vice-President” means the person elected as Vice-President of the Institute under section 6; and

“Zambia Qualifications Authority” means the Zambia Qualifications Authority established under the Zambia Qualifications Authority Act, 2011.

Act No. 13
of 2011

PART II

THE ZAMBIA INSTITUTE OF VALUATION SURVEYORS

3. (1) The Valuation Surveyors Registration Board established under the repealed Act is continued as if established under this Act and is renamed as the Zambia Institute of Valuation Surveyors.

Continuation
and
renaming of
Valuation
Surveyors
Registration
Board

(2) The Institute is a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name, and with power, subject to the provision of this Act, to do all acts and things that a body corporate may, by law, do or perform.

(3) The First Schedule applies to the Institute.

4. (1) The functions of the Institute are to—

Functions of
Institute

- (a) advance the valuation surveying profession and promote its interests;
- (b) register and regulate valuation surveyors;
- (c) issue practising certificates to eligible members;

- (d) set and enforce professional standards of valuation surveying practice;
 - (e) develop, promote and enforce internationally comparable valuation surveying practice standards in the Republic;
 - (f) provide continuous professional development to valuation surveyors;
 - (g) investigate cases of professional misconduct under this Act;
 - (h) publish a journal of the Institute, and collect, collate and publish other information of interest to the Institute;
 - (i) undertake research and development into matters affecting the valuation surveying profession;
 - (j) promote public awareness in matters relating to the valuation surveying profession;
 - (k) recommend to the Higher Education Authority and higher education institutions, the development and maintenance of appropriate standards for valuation surveying training and education;
 - (l) collaborate with the higher education institutions, Government departments and other institutions to enhance the interest and improve the quality of the valuation surveying profession; and
 - (m) create and maintain a national real estate database to facilitate the storage of data to support real estate transactions and valuations.
- (2) The Institute may determine—
- (a) the fees payable by the members and for an inspection conducted or other services rendered by the Institute; and
 - (b) what portion of any fee is payable in respect of any part of a year and the date on which the fee or portion of the fee is payable.

Constitution
of Institute

5. (1) The Institute shall, by a vote of at least two-thirds of the members voting at a general meeting of the Institute, adopt a constitution and may, in a like manner, amend it.

(2) Subject to this Act, the constitution shall regulate the conduct of the affairs of the Institute.

(3) The constitution may provide for the—

- (a) meetings of the Institute, including the delivery of notices of the meetings, the quorum, voting, adjournments and other matters of procedure or conduct of the meetings;

- (b) election, qualifications and tenure of office of the President, Vice-Presidents and other office bearers of the Institute;
- (c) composition, functions, powers and procedures of the committees of the Institute;
- (d) classes of membership and their rights, privileges and obligations; and
- (e) any other matter that the membership may determine.

6. The members shall elect the President, Vice-Presidents and other office bearers of the Institute in accordance with the provisions of the constitution.

President,
Vice-
Presidents and
other office
bearers

7. (1) Subject to this Act, the Institute may regulate its own procedure.

Meetings of
Institute

(2) The meetings of the Institute shall be conducted in accordance with the provisions of the constitution.

(3) The validity of any proceedings, acts or decisions of the Institute shall not be affected by a person's absence from a meeting of the Institute or by reason that a person not entitled to do so took part in the proceedings of a meeting of the Institute.

8. (1) There is constituted the Council of the Institute which is responsible for the management and control of the affairs of the Institute.

Council of
Institute

(2) The Council consists of the following part-time council members elected in accordance with the provisions of the constitution:

- (a) the President;
- (b) the two Vice-Presidents;
- (c) four other members; and
- (d) the immediate past President as *ex-officio*.

(3) A person shall not be elected as a council member if that person is—

- (a) found guilty of professional misconduct under this Act or any other written law;
- (b) convicted of an offence under this Act or any other written law and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (c) an undischarged bankrupt;

- (d) legally disqualified from performing the functions of a council member;
- (e) convicted of an offence involving fraud or dishonesty under this Act or any other written law; or
- (f) an employee of the Institute.

(4) The First Schedule applies to the Council.

Functions of
Council

9. (1) The functions of the Council are to perform the executive functions of the Institute.

(2) Despite the generality of subsection (1), the functions of the Council are to—

- (a) develop rules and guidelines for members of the Institute;
- (b) refer a matter for investigation to a Professional Conduct Committee or Disciplinary Committee in accordance with Part IV;
- (d) make recommendations relating to the valuation surveying profession to the general meeting of the Institute;
- (e) set, establish and monitor standards for members employed in valuation surveying;
- (f) approve the policies, programmes and strategic plans of the Institute;
- (g) approve the annual work plan, action plans, activities and reports of the Institute;
- (h) approve the annual budget estimates and financial statements of the Institute;
- (i) monitor and evaluate the performance of the Institute against budgets and plans; and
- (j) advise the Minister on matters relating to the valuation surveying practice.

(3) The Council may, by direction, in writing, and on conditions that the Council considers necessary, delegate to the Registrar any of the Council's functions under this Act.

Registrar and
other staff

10. (1) The Council shall appoint a Registrar, on terms and conditions that the Council may determine, who shall be—

- (a) the chief executive officer of the Institute and Secretary to the Council; and
- (b) responsible for the day-to-day administration of the Institute.

(2) The Registrar shall attend meetings of the Council or a committee of the Council and may address those meetings, but shall have no vote.

(4) The Council shall appoint other staff of the Institute that the Council considers necessary for the performance of the functions of the Institute.

(5) The Council shall determine the conditions of service and emoluments of the Registrar and other staff of the Institute.

PART III

REGISTRATION OF VALUATION SURVEYORS AND ISSUANCE OF PRACTISING CERTIFICATES

11. (1) A person shall not be employed or practise as a valuation surveyor without registering with the Institute in accordance with this Act.

Prohibition
of practising
without
registration

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

12. (1) A person who intends to be employed or to practise as a valuation surveyor shall apply to the Institute for registration in the prescribed manner and form on payment of a prescribed fee.

Application
for
registration
as member

(2) The Institute may determine different fees for different classes of valuation surveyors.

(3) The Institute may, within thirty days of receipt of an application under subsection (1), grant or reject the application.

(4) The Institute shall, where the Institute rejects an application under subsection (3), inform the applicant of the decision, in writing, and give reasons for the decision.

13. (1) The Institute shall, in considering an application made under section 12, register an applicant as a valuation surveyor if the Institute is satisfied that the applicant—

Determination
for
registration
as member

- (a) has met the requirements for membership as provided in the constitution;
- (b) possesses knowledge, training and experience that may be prescribed;
- (c) holds a qualification recognised and validated by the Zambia Qualifications Authority;
- (d) is of good professional standing;

- (e) is a citizen or is resident in the Republic and has an established office or appointment in the Republic in the valuation surveying profession; and
- (f) meets other requirements that the Minister may, on the recommendation of the Institute, prescribe by statutory instrument.

(2) The Institute shall register a valuation surveyor in accordance with the categories and classes of membership prescribed in the constitution.

Certificate
of
registration

14. (1) The Institute shall issue a valuation surveyor with a certificate of registration in the prescribed form showing the valuation surveyor's class of membership.

(2) A certificate of registration shall remain the property of the Institute and shall have an unlimited period of validity, unless suspended or cancelled under this Act.

Disqualification
from
registration

15. A person shall not qualify for registration as a valuation surveyor if that person is—

- (a) convicted of an offence involving fraud or dishonesty under this Act or any other written law in the preceding five years prior to the application for registration;
- (b) convicted of an offence under this Act or any other written law and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (c) legally disqualified;
- (d) an undischarged bankrupt; or
- (e) found guilty of professional misconduct by the Disciplinary Committee and the Disciplinary Committee orders the cancellation of the certificate of registration of that valuation surveyor.

Title for
registered
valuation
surveyor

16. A registered valuation surveyor shall use the title or designation as provided in the constitution.

Change in
details

17. A valuation surveyor registered under this Act shall notify the Registrar, in writing, of any change in the particulars relating to the registration within seven days of the change.

Suspension
and
cancellation
of
registration

18. (1) Subject to this Act, the Institute may suspend or cancel the registration of a valuation surveyor if—

- (a) the Institute has reasonable grounds to believe that the registration was obtained through fraud, misrepresentation or concealment of a material fact;

- (b) the valuation surveyor is found guilty of professional misconduct under this Act or the code of ethics and the Disciplinary Committee orders the suspension or cancellation of the valuation surveyor's certificate of registration;
- (c) the valuation surveyor is convicted of an offence under this Act or any other written law and sentenced to imprisonment for a term exceeding six months without the option of a fine; or
- (d) since the registration, circumstances have arisen disqualifying the valuation surveyor from registration.

(2) The Institute shall, before suspending or cancelling the registration under subsection (1), give the valuation surveyor an opportunity to be heard.

(3) The Institute may, before cancelling the registration of a valuation surveyor, suspend the valuation surveyor for a specified period and on terms and conditions that the Institute may determine.

(4) Where the Institute cancels the registration of a valuation surveyor under this section, the name of the valuation surveyor shall be removed from the Register and shall not be restored except on conditions that may be prescribed.

(5) Where a certificate of registration is cancelled under this section, the practising certificate of the holder of the certificate of registration shall be void.

19. A person may, where a certificate of registration is cancelled under section 18, apply to the Institute for re-registration in the prescribed manner and form on payment of a prescribed fee, subject to the terms and conditions that the Institute may determine.

Re-
registration

20. (1) A person shall not practise as a valuation surveyor without a valid practising certificate issued to that person by the Institute under this Act.

Prohibition
of practising
without
valid
practising
certificate

(2) A person shall not offer employment to a person as a valuation surveyor who does not hold a valid practising certificate issued under this Act.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Practising
certificate

21. (1) A registered valuation surveyor shall apply to the Institute for a practising certificate in the prescribed manner and form on payment of a prescribed fee.

(2) The Institute shall, within thirty days of the receipt of an application under subsection (1), issue the applicant with a practising certificate in the prescribed form where the applicant meets the requirements of this Act.

(3) The Minister may, by statutory instrument, and on the recommendation of the Institute, make Regulations to provide for—

- (a) the terms and conditions for the issuance of a practising certificate; 10
- (b) the type of continuous professional development and training and any other information required for the issuance of a practising certificate; and
- (c) any other matter that is necessary for the purposes of this section.

Display of
practising
certificate

22. A holder of a practising certificate shall display the practising certificate in a conspicuous place at the place of practice.

Renewal of
practising
certificate

23. (1) A practising certificate shall be renewed annually in the prescribed manner and form on payment of a prescribed fee.

(2) A practising certificate that is not renewed in accordance with subsection (1) is void.

Suspension
and
cancellation
of practising
certificate

24. (1) Subject to this Act, the Institute may suspend or cancel a practising certificate if the holder—

- (a) is found guilty of professional misconduct and the Disciplinary Committee orders the suspension or cancellation of the practising certificate;
- (b) is convicted of an offence under this Act or any other written law and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (c) becomes legally disqualified from performing the duties of a valuation surveyor;
- (d) is an undischarged bankrupt;
- (e) obtained the practising certificate through fraud, misrepresentation or concealment of a material fact; or
- (f) is de-registered under this Act.

(2) The Institute shall, before suspending or cancelling the practising certificate of a valuation surveyor under this section, give the valuation surveyor an opportunity to be heard.

(3) The Institute may, before cancelling the practising certificate of a valuation surveyor, suspend the valuation surveyor for a specified period and on terms and conditions that the Institute may determine.

25. (1) A valuation surveyor who does not intend to practice valuation surveying for a specified period of time shall notify the Institute, in writing, of that valuation surveyor's intention.

Maintenance of non-practising valuation surveyor on register

(2) The Institute may, where a valuation surveyor notifies the Institute in accordance with subsection (1), maintain the name of the valuation surveyor on the register, in a non-practising category, for that period of time.

26. A certificate of registration or practising certificate issued under this Part shall not be transferred to a third party.

Prohibition of transfer of certificate of registration or practising certificate

27. (1) A valuation surveyor whose certificate of registration or practising certificate is destroyed or lost may apply to the Registrar for a duplicate certificate of registration or practising certificate in the prescribed manner and form on payment of a prescribed fee.

Duplicate certificate of registration or practising certificate

(2) The Registrar may, within fourteen days of receipt of an application under subsection (1), issue a duplicate certificate of registration or practising certificate to the valuation surveyor.

28. A valuation surveyor whose certificate of registration or practising certificate is cancelled shall, within seven days of being notified of the cancellation, surrender the certificate of registration or practising certificate to the Institute.

Surrender of cancelled certificate of registration or practising certificate

29. (1) A person who registers a valuation surveying firm under the Companies Act, 2017, the Registration of Business Names Act, 2011, or any other written law, shall register the valuation surveying firm with the Institute in the prescribed manner and form on payment of a prescribed fee.

Valuation surveying firm
Act No. 10 of 2017
Act No. 16 of 2011

(2) The Minister may, by statutory instrument, on the recommendation of the Institute, make Regulations to provide for—

- (a) the terms and conditions for the issuance of a certificate of registration as a valuation surveying firm;
- (b) the circumstances on which the registration under this section may be suspended or cancelled; and
- (c) any other matter that is necessary for the purpose of this section.

Register

- 30.** (1) The Institute shall keep and maintain a register of—
- (a) members;
 - (b) registered valuation surveyors;
 - (c) the holders of practising certificates and persons whose practising certificates are cancelled;
 - (d) valuation surveying firms;
 - (e) the applications rejected and reasons for the rejection; and
 - (f) any other information that the Institute may determine.

(2) The register referred to under subsection (1) shall contain particulars that may be prescribed.

(3) The register shall be kept in the custody of the Registrar at the offices of the Institute and shall be open for inspection to members of the public during normal office hours on payment of a fee that the Institute may determine.

(4) The Registrar shall, on an application by any person, issue to the person a certified extract from the registers or a copy of a certificate of registration or practising certificate, on payment of a fee that the Institute may determine.

Publication of copies of register

31. (1) The Registrar shall, on the direction of the Council, cause copies of the register, including alterations of, or additions to the register, to be printed and published in a manner and form that the Council may direct.

(2) Subject to this Act, a copy of the last published and printed register shall be *prima facie* evidence in legal proceedings of what is contained in that register, and the absence of the name of a valuation surveyor or member from that copy is *prima facie* evidence that the person is not registered as a valuation surveyor or member.

Offences relating to registration, etc.

32. (1) A person shall not—

- (a) make or cause to be made, an unauthorised entry, alteration or erasure on a register, certificate of registration or practising certificate, or on a certified copy of a register, certificate of registration or practising certificate;

- (b) procure or attempt to procure registration under this Act by fraud, misrepresentation or the concealment of a material fact;
- (c) impersonate a valuation surveyor or use the title or designation of a valuation surveyor while not registered as a valuation surveyor under this Act; or
- (d) forge a certificate of registration, practising certificate or other document issued under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

PART IV

DISCIPLINARY MATTERS

33. The Council shall adopt and publish a code of ethics for valuation surveyors, which shall bind valuation surveyors regulated under this Act. Code of ethics

34. A valuation surveyor commits professional misconduct if the valuation surveyor— Professional misconduct

- (a) contravenes a provision of this Act;
- (b) unlawfully discloses or uses to the valuation surveyor's advantage any information acquired in the practice of the valuation surveyor;
- (c) engages in conduct that is dishonest, fraudulent or deceitful; or
- (d) breaches the code of ethics or encourages another valuation surveyor to breach or disregard the code of ethics.

35. (1) A person may lodge a complaint with the Institute against a valuation surveyor where that person alleges that the valuation surveyor has committed professional misconduct. Initiation of disciplinary action

(2) The Institute may initiate disciplinary action under this section where the Institute has reasonable grounds to believe that a valuation surveyor has committed professional misconduct.

(3) A complaint under subsection (1) shall be made to the Registrar in the prescribed manner and form.

Professional
Conduct
Committee

36. (1) Subject to the other provisions of this Act, the Council may constitute a Professional Conduct Committee to investigate and hear a matter referred to it by the Institute.

(2) Where a case is referred to a Professional Conduct Committee, that Professional Conduct Committee shall consider the case and subject to the provisions of this section, determine either that—

- (a) no inquiry shall be held in the case by the Disciplinary Committee; or
- (b) the matter in question shall, in whole or in part, be referred to the Disciplinary Committee for inquiry.

(3) Where a Professional Conduct Committee determines that no inquiry shall be held in a case by the Disciplinary Committee, the Registrar shall inform the complainant, if any, and the valuation surveyor of the decision of the Professional Conduct Committee on terms that the Professional Conduct Committee may direct.

(4) A Professional Conduct Committee shall, if it just, cause further investigations to be done, or obtain advice or assistance from any person that the Professional Conduct Committee considers necessary.

(5) Where a Professional Conduct Committee determines that further investigations are necessary, or where at the time when a Professional Conduct Committee is considering the case no explanation has been furnished by the valuation surveyor against whom a complaint has been lodged, the Professional Conduct Committee may make a provisional determination that the matter, in whole or in part, be referred to the Disciplinary Committee.

(6) The person presiding over a Professional Conduct Committee may, where a Professional Conduct Committee makes a provisional determination in accordance with subsection (5) and further investigations are concluded or an explanation is subsequently furnished by the valuation surveyor, in consultation with the members of the Professional Conduct Committee and on the opinion of the majority of the members of the Professional Conduct Committee, direct that—

- (a) an inquiry shall not be held in the case by the Disciplinary Committee; or
- (b) the matter be referred to the Disciplinary Committee for inquiry.

(7) The Registrar shall, where a direction is given in accordance with subsection (6)(a), inform the complainant, if any, and the practitioner of the decision of the Professional Conduct Committee on terms that the Professional Conduct Committee may direct.

(8) The Minister may, on the recommendation of the Institute, by statutory instrument prescribe:

- (a) the composition of a Professional Conduct Committee;
- (b) the tenure of office, disqualification and vacancy of a member of a Professional Conduct Committee;
- (c) the proceedings of a Professional Conduct Committee; and
- (d) any other matter that is necessary for the purposes of this section.

37. Except as otherwise expressly stated, before a matter is referred to the Disciplinary Committee, the Institute shall refer the matter for investigation by a Professional Conduct Committee.

Referring of
matters to
Professional
Conduct
Committee

38. A Professional Conduct Committee may, where the Professional Conduct Committee determines that no inquiry shall be held in a case under this Part by the Disciplinary Committee but finds a valuation surveyor guilty of professional misconduct, impose any of the following sanctions:

Sanctions for
valuation
surveyor by
Professional
Conduct
Committee

- (a) counsel, mentor or censure the valuation surveyor;
- (b) caution the valuation surveyor;
- (c) direct the valuation surveyor to pay an administrative penalty not exceeding fifty thousand penalty units to the Institute;
- (d) direct the valuation surveyor to pay to the Institute or any other party to the matter any costs of, or incidental to, the proceedings; or
- (e) order that the valuation surveyor be retrained or rehabilitated.

39. (1) The Council shall constitute a Disciplinary Committee consisting of the following part-time members:

Disciplinary
Committee

- (a) the Chairperson;
- (b) the Vice-Chairperson;

- (c) four valuation surveyors, at least one of whom shall be from the public sector, who has been in practice for at least ten years and is not a council member; and
- (d) a legal practitioner nominated by the Law Association of Zambia.

(2) The Chairperson and Vice-Chairperson shall be valuation surveyors of the highest class of membership in the Institute.

(3) A person shall not be appointed as a member of the Disciplinary Committee if that person—

- (a) is found guilty of professional misconduct under this Act;
- (b) is an undischarged bankrupt;
- (c) is legally disqualified from performing the functions of a member;
- (d) in the case of a member under subsection (1)(a), (b) and (c), has not been on the register of valuation surveyors for at least ten years preceding the appointment; or
- (e) is convicted of an offence under this Act or any other written law and sentenced to imprisonment for a term exceeding six months without the option of a fine.

(4) A member of the Disciplinary Committee shall hold office for a term of three years and may be re-appointed for a further and final term of three years.

(5) A member shall, on expiration of the term for which the member is appointed, continue to hold office until another member is appointed but in no case shall an extension of the period exceed the period specified in the constitution.

(6) The office of a member becomes vacant if the member—

- (a) dies;
- (b) is adjudged bankrupt under any written law;
- (c) is absent from three consecutive meetings of the Disciplinary Committee of which the member has notice, without the prior approval of the Disciplinary Committee;
- (d) resigns by notice, in writing, to the Council;
- (e) is legally disqualified from performing the functions of a member of the Disciplinary Committee;
- (f) is found guilty of professional misconduct;

- (g) is de-registered under this Act or any other written law; or
- (h) is convicted of an offence under this Act or any other written law and sentenced to imprisonment for a term exceeding six months without the option of a fine.

(7) The Council shall, where there is a vacancy in the membership of the Disciplinary Committee before the expiry of the term of office, appoint another person to replace the member who vacates office but that person shall only hold office for the remainder of the term.

(8) The Registrar shall be the Secretary to the Disciplinary Committee but shall not vote on any matter before the Disciplinary Committee.

40. (1) The functions of the Disciplinary Committee are to hear and determine—

Functions of
Disciplinary
Committee

- (a) any complaint referred to the Disciplinary Committee by a Professional Conduct Committee against a valuation surveyor; or
- (b) a disciplinary action initiated against a valuation surveyor under section 35(2).

(2) The Disciplinary Committee may publicise as the Disciplinary Committee considers appropriate, the facts relating to a valuation surveyor who is found guilty of, and punished for, professional misconduct.

41. (1) Subject to the other provisions of this Act, the Disciplinary Committee may regulate its own procedure.

Proceedings
of
Disciplinary
Committee

(2) Five members of the Disciplinary Committee shall form a quorum at a meeting or sitting of the Disciplinary Committee.

(3) The Chairperson, or in the absence of the Chairperson, the Vice-Chairperson shall preside at a meeting or sitting of the Disciplinary Committee.

(4) A question at a meeting or sitting of the Disciplinary Committee shall be decided by a majority of the members present at the meeting or sitting of the Disciplinary Committee and in the event of an equality of votes, the person presiding at the meeting or sitting shall have a casting vote in addition to that person's deliberative vote.

(5) The proceedings of the Disciplinary Committee shall be in camera.

(6) A party to a hearing of the Disciplinary Committee may appear in person or be represented by a legal practitioner or, if the party so elects, by any other person.

(7) A decision of the Disciplinary Committee shall be in the form of a reasoned judgment and a copy of the judgment shall be supplied to each party to the proceedings and to every person affected by the decision.

(8) A person who is present at a meeting or sitting of the Disciplinary Committee at which any matter is the subject of consideration, and in which matter that person or that person's relative or associate is directly or indirectly interested in a private capacity, shall, as soon as is practicable after the commencement of the meeting or sitting, disclose the interest and shall not, unless the Disciplinary Committee otherwise directs, take part in any consideration or discussion of, or vote on, a question relating to that matter.

(9) A disclosure of interest made under this section shall be recorded in the minutes of the meeting or sitting at which the disclosure is made.

(10) The Disciplinary Committee shall cause to be kept a record of its proceedings.

Powers of
Disciplinary
Committee

42. (1) The Disciplinary Committee may, for the purposes of hearing a complaint under this Part, hear and receive evidence and may—

- (a) under the hand of the Chairperson or the Registrar, summon witnesses and require the production of a book, record, document, electronic record or anything required for the purposes of the proceeding; and
- (b) through the Chairperson or Vice-Chairperson, administer an oath to a witness.

(2) A person summoned to attend before the Disciplinary Committee shall not—

- (a) refuse or fail to attend at the time and place specified in the summons or, having attended, leave without the permission of the Disciplinary Committee;
- (b) having attended, refuse to be sworn or affirm;
- (c) refuse, without lawful excuse, to answer fully and satisfactorily to the best of that person's knowledge and belief, a question lawfully put to that person; or

(d) refuse to produce a book, record, document or thing which that person is required by summons to produce.

(3) A person who contravenes subsection (2) commits an offence and is liable, on conviction, for that refusal or failure, to a fine not exceeding two hundred thousand penalty units.

(4) Despite subsection (2), a person shall not be compelled to answer a question or produce a book, record or document which that person would not be compelled to answer or produce on the trial of an action in the High Court.

(5) A hearing before the Disciplinary Committee shall, for the purposes of Chapter XI of the Penal Code, be deemed to be a judicial proceeding. Cap. 87

(6) A finding of fact which is shown to have been made by a court in the Republic shall, in a hearing before the Disciplinary Committee, be conclusive evidence of the fact so found.

(7) The Disciplinary Committee shall, where the Disciplinary Committee has reasonable cause to believe that a valuation surveyor is legally disqualified, refer the matter for determination in accordance with the Mental Health Act, 2019.

Act No. 6 of 2019

(8) The Disciplinary Committee shall, where a determination is made in accordance with the Mental Health Act, 2019, that a valuation surveyor is legally disqualified, suspend the practising certificate of the valuation surveyor.

Act No. 6 of 2019

(9) The Disciplinary Committee shall, where the Disciplinary Committee finds, after due inquiry, that a valuation surveyor is not guilty of professional misconduct, record a finding that the valuation surveyor is not guilty of the conduct to which the charge relates and dismiss the charge.

(10) The Disciplinary Committee may, for the purpose of any proceedings, use assessors or experts as the Disciplinary Committee considers necessary.

43. The Disciplinary Committee shall, where the Disciplinary Committee finds a valuation surveyor guilty of professional misconduct, after due inquiry, impose one or more of the following sanctions:

Sanctions for professional misconduct by Disciplinary Committee

(a) order the cancellation of the valuation surveyor's certificate of registration or practising certificate;

(b) order the suspension of the certificate of registration or practising certificate for a specified period and on conditions as determined by the Disciplinary Committee;

- (c) censure the valuation surveyor;
- (d) caution the valuation surveyor;
- (e) impose an administrative penalty, not exceeding one hundred thousand penalty units, to be paid to the Institute;
- (f) order that the valuation surveyor be re-trained or rehabilitated;
- (g) order the valuation surveyor to pay to the Institute or a party to the hearing the costs of, or incidental to, the proceedings; or
- (h) order the valuation surveyor to pay a party to the hearing or any other person, as restitution, the amount of loss caused by that person's negligence.

Reports by
Disciplinary
Committee

44. The Disciplinary Committee shall, within seven days from the completion of a hearing, submit to the Council a report of the proceedings together with a copy of the record.

Rules
relating to
disciplinary
proceedings

45. (1) The Chief Justice may, by statutory instrument, make rules relating to the—

- (a) manner and form for lodging of complaints under this Part;
- (b) mode of summoning persons before the Disciplinary Committee;
- (c) manner and form of service of a summons requiring the attendance of a witness before the Disciplinary Committee and the production of a book, record, document or thing;
- (d) procedure to be followed and rules of evidence to be observed in proceedings before the Disciplinary Committee; and
- (e) functions of assessors and experts to the Disciplinary Committee.

(2) Rules made under subsection (1) may provide—

- (a) that before a matter is referred to the Disciplinary Committee, the matter shall, in a manner that may be provided by the Rules, have been brought before a Professional Conduct Committee or investigated by the Institute;
- (b) for securing notices for the proceedings and specifying the time and manner of the proceedings; and
- (c) for securing that a party to the proceedings shall, if that person requires, be entitled to be heard by the Disciplinary Committee.

PART V

INSPECTORATE

46. (1) The Council shall appoint suitably qualified persons as inspectors to ensure compliance with this Act. Inspectors

(2) The Council shall provide an inspector with an identification card which shall be *prima facie* evidence of the inspector's appointment as inspector.

(3) An inspector shall, in performing a function under this Act—

- (a) be in possession of the identification card referred to in subsection (2); and
- (b) show the identification card to a person who requests to see the identification card or is the subject of an investigation under this Act.

47. (1) An inspector may, for the purpose of enforcing the provisions of this Act, at any reasonable time, without prior notice, and on the authority of a warrant, enter any premises that the inspector has reasonable grounds to believe is used for the commission of an offence or contrary to the provisions of this Act, and— Power of entry, search and inspection

- (a) search the premises;
- (b) search any person on the premises if the inspector has reasonable grounds to believe that the person has possession of an article, document or record that has a bearing on an inspection or investigation, except that a person shall only be searched by a person of the same sex;
- (c) take extracts from, or make copies of, any book, document or record that is on the premises and that has a bearing on an inspection or investigation;
- (d) demand the production of, and inspect, relevant certificates; and
- (e) make inquiries necessary to ascertain whether the provisions of this Act or any other written law on which an inspection or investigation is based, have been complied with.

(2) A court may issue a warrant on application by an inspector if it appears from written information given by that inspector, on oath or affirmation, that there are reasonable grounds to believe that this Act has been or is likely to be contravened.

(3) An inspector who removes anything from any premises shall—

- (a) issue a receipt for anything removed to the owner or the person in control of the premises; and
- (b) return anything removed as soon as practicable after the thing removed has served the purpose for which it was removed.

(4) A person commits an offence if that person—

- (a) delays or obstructs an inspector in the performance of the inspector's functions under this Act;
- (b) refuses to give an inspector reasonable assistance as the inspector may require for the purpose of performing the inspector's functions;
- (c) impersonates an inspector or presents oneself to be an inspector; or
- (d) wilfully gives an inspector false or misleading information in answer to an inquiry made by the inspector.

(5) A person convicted of an offence under subsection (4) is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

(6) An inspector shall furnish the Council with a written report and any other information relating to an inspection.

PART VI

GENERAL PROVISIONS

Professional
fees

48. A valuation surveyor shall, for professional services rendered, charge fees that the Council may, with the approval of the Minister, by statutory instrument, prescribe.

False or
misleading
statement

49. (1) A person shall not knowingly or recklessly make a false or misleading statement, orally or in writing, to the Institute, Disciplinary Committee or a Professional Conduct Committee with the intention that it be acted on by the Institute, Disciplinary Committee or a Professional Conduct Committee.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

50. (1) A person aggrieved with a decision of the Institute may, within thirty days of receipt of the decision, appeal to the Minister. Appeals

(2) The Minister shall, within thirty days of receipt of an appeal under subsection (1), hear and determine the appeal.

(3) A person aggrieved with a decision of the Minister may appeal to the High Court.

(4) A person aggrieved with a decision of a Professional Conduct Committee may, within thirty days of the receipt of the decision, appeal to the Disciplinary Committee.

(5) A person aggrieved with a decision of the Disciplinary Committee may appeal to the High Court.

(6) A decision of a Professional Conduct Committee or the Disciplinary Committee shall not take effect until the expiration of the time for lodging an appeal against the decision or, if an appeal is lodged, until the time the appeal is disposed of, withdrawn or struck out for want of prosecution.

(7) The proceedings of a Professional Conduct Committee or the Disciplinary Committee shall not be set aside by reason only of some irregularity in those proceedings if that irregularity did not occasion a substantial miscarriage of justice.

51. (1) A person shall not, without the consent in writing given by, or on behalf of, the Institute, publish or disclose to a person, other than in the course of duties of that person, the contents of a document, communication or information which relates to, or which has come to the knowledge of that person in the course of that person's duties under this Act. Prohibition of publication or disclosure of information to unauthorised persons

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(3) A person who, having information which to that person's knowledge has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates the information to another person, commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Offences by principal officers of body corporate or unincorporate body	52. Where an offence under this Act is committed by a body corporate or an unincorporate body, with the knowledge, consent or connivance of the director, manager, shareholder or partner of the body corporate or an unincorporate body, that director, manager, shareholder or partner commits the same offence as the body corporate or unincorporate body and is liable, on conviction, to the penalty specified for that offence under this Act.
Administrative Penalty	53. (1) The Institute may impose an administrative penalty on a person for a failure to comply with a provision of this Act which is not an offence. (2) An administrative penalty shall not exceed the amount prescribed by the Minister, by statutory instrument, for each day during which the failure continues. (3) An administrative penalty shall be paid to the Institute within the period prescribed by the Minister. (4) The Institute may, where a person fails to pay an administrative penalty within the stipulated period under subsection (3), by way of civil action in a competent court, recover the amount of the administrative penalty from that person as an amount due and owing to the Institute.
Immunity	54. An action or other proceeding shall not lie or be instituted against a council member, a member of a committee of the Council, a member of a Professional Conduct Committee, a member of the Disciplinary Committee and a member of staff of the Institute for, or in respect of, an act or thing done or omitted to be done in good faith in the exercise or performance of a power or function conferred under this Act.
Guidelines	55. (1) The Institute may, in the exercise of its functions under this Act, issue guidelines as are necessary for the better carrying out of the provisions of this Act. (2) The Institute shall publish the guidelines issued under this Act in the <i>Gazette</i> and any other electronic media that the Institute may determine. (3) The guidelines shall take effect on the date of publication and shall bind the persons regulated under this Act.
Regulations	56. (1) The Minister may, on the recommendation of the Council, by statutory instrument, make Regulations for the better carrying out of the provisions of this Act.

(2) Despite the generality of subsection (1), Regulations made under this section may make provision for the—

- (a) manner and form for applications under this Act and the fees payable;
- (b) form of, and particulars to be entered on, the Register;
- (c) form of the certificate of registration and the conditions under which the certificate of registration is issued;
- (d) qualifications for registration of a valuation surveyor;
- (e) code of ethics to which a valuation surveyor shall subscribe;
- (f) continuous professional development for valuation surveyors;
- (g) development, use and retention of documents and information in electronic form; and
- (h) regulation of valuation surveying firms.

57. (1) The Valuation Surveyors Act is repealed.

(2) Despite subsection (1), the Second Schedule applies to the matters specified in that Second Schedule.

Repeal of
Cap. 207
and savings
and
transitional
provisions

FIRST SCHEDULE (Sections 3(3) and 8(4))

THE ZAMBIA INSTITUTE OF VALUATION SURVEYORS

PART I

ADMINISTRATION OF COUNCIL

1. (1) The seal of the Institute shall be a device that may be determined by the Council and shall be kept by the Registrar.

Seal of
Institute

(2) The affixing of the seal shall be authenticated by the President or the Vice-President and the Registrar or any other person authorised in that behalf by a resolution of the Council.

(3) A contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal may be entered into or executed without seal on behalf of the Institute by the Registrar or any other person generally or specifically authorised by the Council for that purpose.

(4) A document purporting to be under the seal of the Institute or issued on behalf of the Institute shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

Tenure of
office and
vacancy of
council
member

2. (1) A council member shall, subject to the other provisions of this Act, hold office for a term of three years and may be re-elected for a further and final term of three years.

(2) A council member shall, on the expiration of the term for which the member is elected continue to hold office until another council member is elected, but in no case shall the extension of the term exceed three months.

(3) The office of a council member becomes vacant if the council member—

- (a) dies;
- (b) is adjudged bankrupt under any written law;
- (c) resigns by notice, in writing, to the Institute;
- (d) is legally disqualified from performing the functions of a council member;
- (e) is disqualified from being a council member in accordance with section 8(3);
- (f) has their certificate of registration or practising certificate cancelled under this Act;
- (g) is found guilty of professional misconduct;
- (h) is absent, without prior approval of the Council, from three consecutive meetings of the Council of which the council member had notice; or
- (i) is convicted of an offence under this Act or any other written law and sentenced to imprisonment for a term of six months without the option of a fine.

(4) The Council shall, where there is a vacancy in the membership of the Council before the expiry of the term of office, cause the election of another person to take place to replace the member who vacates office, in accordance with the constitution.

Proceedings
of Council

3. (1) Subject to the other provisions of this Act, the Council may regulate its own procedure.

(2) The Council shall meet at least once in every three months for the transaction of business at a place and time as the President may determine.

(3) The President may call a meeting of the Council on giving notice of not less than fourteen days or where one third of the council members so request, in writing, except that if the urgency of a particular matter does not permit the giving of notice, a special meeting may be called on giving a shorter notice.

(4) Five council members shall form a quorum at a meeting of the Council.

(5) There shall preside at a meeting of the Council—

- (a) the President;
- (b) in the absence of the President, the Vice-President; or
- (c) in the absence of both the President and Vice-President, another council member that the council members present shall elect for the purpose of that meeting.

(6) A decision of the Council on any question shall be by a majority of the council members present and voting at the meeting, and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to that person's deliberative vote.

(7) The Council may invite a person whose presence is in the Council's opinion desirable to attend and participate in the deliberations of the meeting, but that person shall have no vote.

(8) The validity of any proceedings, acts or decisions of the Council shall not be affected by a vacancy in the membership of the Council or any defect in the appointment of a council member or by reason that a person not entitled to do so took part in the proceedings.

(9) The Council shall cause minutes to be kept of the proceedings of every meeting of the Council and of any committee established by the Council.

4. (1) The Council may for the purpose of performing its functions under this Act, constitute a committee and delegate any of its functions to the committee as the Council considers necessary.

Committees

(2) The Council may appoint as members of a committee persons who are or are not council members, except that at least one council member shall be a member of a committee.

(3) A member of a committee shall hold office for a term as the Council may determine.

(4) Subject to any specific or general direction of the Council, a committee may regulate its own procedure.

5. The Council shall pay to a council member, a member of a committee of the Council, a member of a Professional Conduct Committee and a member of the Disciplinary Committee an allowance as the Council may determine.

Allowances

Disclosure
of interest

6. (1) A person who is present at a meeting of the Council or a committee of the Council at which any matter is the subject of consideration, and in which matter that person or that person's relative or associate is directly or indirectly interested in a private capacity, shall, as soon as is practicable after the commencement of the meeting, disclose the interest and shall not, unless the Council or the committee of the Council otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which the disclosure is made.

PART II

FINANCIAL PROVISIONS

Fund of
Institute

7. (1) The Funds of the Institute consist of monies that may—

- (a) be paid to the Institute by way of fees, charges, grants or donations;
- (b) be proceeds of any investments by the Institute; and
- (c) otherwise vest in, or accrue to, the Institute.

(2) The Institute may—

- (a) accept monies by way of grants or donations from any source in or outside the Republic;
- (b) raise by way of loans or otherwise, monies as it may require for the performance of the Institute's functions; and
- (c) in accordance with Regulations made under this Act, charge and collect fees for services and in respect of programmes and seminars conducted by the Institute.

(3) There shall be paid from the funds of the Institute—

- (a) the salaries, allowances and loans of the staff of the Institute;
- (b) reasonable travelling, transport and subsistence allowances for council members, members of a committee of the Council, members of the Disciplinary Committee and members of a Professional Conduct Committee when engaged in the business of the Institute at the rates approved by the Council; and

(c) any other expenses incurred by the Institute in the performance of the Institute's functions under this Act.

(4) The Institute may, invest in a manner that the Institute considers appropriate, funds of the Institute that the Institute does not immediately require for the performance of the Institute's functions.

8. The financial year of the Institute shall be a period of twelve months ending on 31st December in each year. Financial year

9. (1) The Institute shall cause to be kept proper books of account and other records relating to its accounts. Accounts and audit

(2) The accounts of the Institute shall be audited annually by an independent auditor appointed by the Council.

(3) The fees of the independent auditor shall be paid by the Institute.

SECOND SCHEDULE

(Section 57(2))

SAVINGS AND TRANSITIONAL PROVISIONS

1. In this Schedule, "former Board" means the Valuation Surveyors Registration Board, established under the repealed Act. Interpretation

2. (1) A person who, before the commencement of this Act, was an employee of the former Board shall continue to be an employee of the Institute as if employed under this Act. Transfer of staff of former Board

(2) The service of the persons referred to in subparagraph(1) shall be treated as continuous service.

(3) Nothing in this Act affects the rights and liabilities of an employee employed by the former Board before the commencement of this Act.

3. (1) On or after the commencement of this Act, committees and officers of the former Board operating or holding office immediately before the commencement of this Act, shall operate and hold office as the committees and officers of the Institute for a period of six months as if they had been elected under this Act. Office bearers

(2) The Institute shall, six months after the commencement of this Act, hold elections for its Institute, committees and other office bearers.

(3) The rules of the former Board in force immediately before the commencement of this Act shall remain in force as if they have been made and issued by the Institute until a time that new rules are made.

(4) A representative appointed by the former Board to serve on any committee or other body shall be deemed to be a representative appointed by the Institute under this Act.

Registration,
authorisation
or
recognition
by former
Board

4. A registration, authorisation or recognition granted by the former Board, whether to a company or an individual, shall be deemed, until expiry, to be a registration, authorisation or recognition granted in accordance with this Act, but subject to any rights or benefits accruing, or any liabilities suffered, under the former Board.

Transfer of
assets and
liabilities

5. (1) On the commencement of this Act, there shall be transferred to, vest in and subsist against the Institute by virtue of this Act and without further assurance, the assets, rights, liabilities and obligations which immediately before the commencement of this Act were the assets, rights, liabilities and obligations of the former Board.

(2) Subject to subparagraph (1), every deed, bond or agreement, other than an agreement for personnel service, to which the former Board was a party immediately before the commencement of this Act, whether or not of a nature that rights, liabilities and obligations could be assigned, shall, unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this paragraph, have effect as if—

- (a) the Institute had been party to it;
- (b) for any reference to the former Board there were substituted, with respect to anything falling to be done on or after the commencement of this Act, a reference to the Institute; or
- (c) for any reference to any officer of the former Board, not being a party to it and beneficially interested, there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to that officer of the Institute, as the Institute shall designate.

(3) Where under this Act, any assets, rights, liabilities and obligations of the former Board are considered to be transferred to the Institute, in respect of which transfer a written law provides for registration, the Institute shall make an application, in writing, to the appropriate registration authority for registration of the transfer.

(4) The registration authority, under subparagraph (3), shall make entries in the appropriate register that shall give effect to the transfer and, where applicable, issue to the transferee a certificate of title in respect of the property or make necessary amendments to the register and shall endorse the deed relating to the title, right or obligation concerned and no registration fees or other duties shall, be payable in respect of the transaction.

6. (1) Any legal proceedings or application of the former Board pending immediately before the commencement of this Act by or against the former Board may be continued by or against the Institute. Legal proceedings

(2) After the commencement of this Act, proceedings in respect of a right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the former Board may be instituted by or against the Institute.
