

## **Gujarat Professional Civil Engineers Act, 2006**

**19 of 2006**

**[31th, March, 2006]**

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## **Gujarat Professional Civil Engineers Act, 2006**

**19 of 2006**

**[31th, March, 2006]**

An Act to provide for registration of Professional Civil Engineers and for matters connected therewith. It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:

### CHAPTER 1 PRELIMINARY

#### **1. Short title, extent and commencement :-**

(1) This Act may be called the Gujarat Professional Civil Engineers Act, 2006.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may, by notification in the Office Gazette, appoint. [STATEMENT OF OBJECTS AND REASONS On account of the rapid urbanisation in the State, the building construction activity has expended rapidly with inadequate regulation. A large variety of buildings, many of which are of extreme complexity and magnitude, like multi-storied office buildings, factory buildings, residential houses, are being constructed each year. With the increase in the building, activity, unqualified persons are undertaking the design and the construction of buildings which are often unsafe. This was noticed in the areas of the State where the earthquake took place on 26.1.2001. The loss of human life could have been avoided if the design and construction of buildings had been safe. There is, therefore, need for statutory regulation to protect the general public from unqualified persons working as civil engineers. For that purpose, it is proposed to create a body corporate by the name of the Gujarat Council of Professional Civil Engineers which would register the professional civil engineers. Initially the persons who, having possessed a qualification in engineering in at the commencement of the legislation and experience of working as civil engineers for a period of not less than fifteen years, would be

registered as professional civil engineers. Subsequently, only persons, who have requisite qualifications and experience in civil engineering and who have passed the examination held by the Council, would be registered as professional civil engineers. A persons, who is registered as a professional civil engineers, shall be issued a certificate of practice by the Council. A person who does not hold a certificate of practice shall not be entitled to practice as a professional civil engineer. It shall be unlawful for a person to practice as a professional engineer unless he possesses a certificate of practice. This Bill seeks to achieve the aforesaid object. The following notes on clauses explain, in brief, the important provisions of the Bill. Clause 3. This clause provides for establishment and composition of the Gujarat Council of Professional Civil Engineers. Clause 4. This clause provides for the President and the Vice-President of the Council. Clause 5. This clause provides for mode of elections of certain members of the Council. Clause 6. This clause provides for the term of office and casual vacancies. Clause 9. This clause provides for meetings of the Council. Clause 10. This clause provides for the fees and allowances to President, Vice-President and the members of the Council. Clause 11. This clause provides for the officers and the employees of the Council. Clause 12. This clause provides for the finance of the Council. Clause 13. This clause provides for the functions of the Council. Clause 14. This clause provides for Registration of Professional Civil Engineer. Clause 15. This clause provides for the certificate of practice issued to the Professional Civil Engineer. Clause 16. This clause provides for preparation and maintenance of register. Clause 17. This clause provides for removal of a name of Professional Civil Engineer from the register. Clause 18. This clause provides for surrender of certificate of practice in certain circumstances. Clause 19. This clause provides for restoration of a name of Professional Civil Engineer in the register. Clause 22. This clause provides for professional conduct. Clause 23. This clause provides for procedure in inquiry relating to misconduct. Clause 24. This clause provides for penalty for falsely claiming to be registered. Clause 25. This clause prohibits use of title by a person other than registered professional civil engineer and provides for penalty for contravention of that provision. Clause 26. This clause prohibits unqualified persons from certifying engineering designs. Clause 27. This clause provides for penalty for failure to surrender certificate of practice. Clause 29. This clause prohibits an authority from permitting construction unless engineering design is certified by a

professional civil engineer. Clause 33. This clause provides for power to remove difficulties. Clause 34. This clause provides for power of the State Government to make rules. Clause 35. This clause provides for power of the Council to make regulations.]

## **2. Definitions :-**

In this Act, unless the context otherwise requires

(a) "Council" means the Gujarat Council of Professional Civil Engineers established under Sec. 3;

(b) "member" means a member of the Council;

(c) "President" means the President of the Council;

(d) "professional civil engineer" means a person whose name is for the time being entered in the register;

(e) "recognised engineering institution" means any University established by law in India or other institution in India or outside India which imparts education in engineering and confers a degree or diploma in engineering and is by notification in the Official Gazette, recognised by the Council in consultation with the State Government;

(f) "register" means the register of professional civil engineers maintained under Sec. 16;

(g) "registrar" means the registrar appointed under clause (a) of sub-sec. (1) of Sec. 11;

(h) "regulation" means a regulation made under Sec. 35 by the Council;

(i) "rules" means a rules made under Sec. 34 by the State Government;

(j) "Vice-President" means the Vice-President of the Council.

### **CHAPTER 1**

#### **GUJARAT COUNCIL OF PROFESSIONAL CIVIL ENGINEERS**

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- (e) "recognised engineering institution" means any University established by law in India or other institution in India or outside India which imparts education in engineering and confers a degree or diploma in engineering and is by notification in the Official Gazette, recognised by the Council in consultation with the State

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(g) "registrar" means the registrar appointed under clause (a) of sub-sec. (1) of Sec. 11;

(h) "regulation" means a regulation made under Sec. 35 by the Council;

(i) "rules" means a rules made under Sec. 34 by the State Government;

(j) "Vice-Presidentf means the Vice-President of the Council.

#### CHAPTER 3

#### REGISTRATION OF PROFESSIONAL CIVIL ENGINEERS

### **14. Registration of Professional Civil Engineers :-**

(1) A person

(a) on whom a Master degree in Civil Engineering is conferred by a recognised engineering institution and who possesses experience of working as a civil engineer for a period of not less than three years after such conferment, or

(b) on whom a Bachelor degree in Civil Engineering is conferred by a recognised engineering institution and who possesses experience of working as a civil engineer for a period of not less than four years after such conferment, or

(c) on whom a Diploma in Civil Engineering is conferred by a recognised engineering institution and who possesses experience of working as a civil engineer for a period of not less than six years after such conferment, or

(d) who possesses such other qualification as is recognised by the Council as being equivalent to the qualification mentioned in clause (a) or (b) and experience of working as a civil engineer for such period as may be prescribed by regulations, shall be eligible to appear for such examination as may be prescribed by regulations, on payment of such fees as may be prescribed by rules, and held by the Council and on passing such examination, such person shall be entitled to have his name entered in the register.

(2) Notwithstanding anything contained in sub-sec. (1), a person,

who, having possessed any of the qualifications mentioned in clauses (a) to (d) of that sub-section possesses at the commencement of this Act experience of working as a civil engineer for a period of not less than fifteen years, shall be entitled to have his name entered in the register during the period of two years from such commencement if the Council, on verification of his qualifications and experience in such manner as may be prescribed by regulations, is satisfied about the same.

(3) Every person entitled under sub-sec. (1) or (2) to have his name entered in the register shall have his name entered in the register on application being made and granted in such manner as may be prescribed by regulations and on payment of such fees not exceeding twenty thousand rupees as may be prescribed by rules.

(4) Any person whose application to have his name entered in register is rejected may, within three months of the date of such rejection of the application, appeal to the State Government and the decision of the State Government in such appeal shall be final and shall not be called in question in any court.

(5) Upon entry in the register of a name under this section, the Registrar shall issue a certificate of practice in such form as may be prescribed by rules.

#### **15. Certificate of practice :-**

(1) No person whose name is entered in the register shall be entitled to practice as a professional civil engineer unless he has obtained from the Council a certificate of practice.

(2) Every such person shall pay such annual fee not exceeding twenty thousand rupees as may be prescribed by rules and such fee shall be payable on or before the 1st day of April in each year.

#### **16. Preparation and maintenance of register :-**

(1) The Council shall, upon its constitution, cause to prepare a register of professional civil engineers in the State and maintain the same in accordance with the provisions of this Act.

(2) The register shall include the following particulars, namely:

(a) the full name with date of birth, nationality and residential and professional address of the professional civil engineer;

(b) the date on which his name is registered in the register;



(c) his qualifications and the date on which he obtained those qualifications and the authority which conferred it; and

(d) such further particulars as may be prescribed by rules.

**17. Removal of name from Register :-**

(1) The Council may, by order, remove from the register the name of any professional civil engineer

(a) from whom a request has been received to that effect, or

(b) who has died since the last publication of the register.

(2) Subject to the provisions of this section, the Council may order that the name of any professional civil engineer shall be removed from the register where it is satisfied, after giving him a reasonable opportunity of being heard and after such further inquiry, if any, as it may think fit to make

(a) that his name has been entered in the register by error or on account of misrepresentation or suppression of a material fact; or

(b) that he has been convicted of any offence which, in the opinion of the Council, involves moral turpitude or has been guilty of any infamous conduct in any professional respect or has violated standards of professional conduct and etiquette or the code of ethics which, in the opinion of the Council, renders him unfit to be kept in the register;

(c) that he is an undischarged insolvent; or

(d) that he has been adjudged by a competent court to be of unsound mind.

(3) An order under sub-sec. (2) may direct that any professional civil engineer whose name is ordered to be removed from the register shall be ineligible for registration under this Act either permanently or for such period as may be specified.

(4) A person aggrieved by an order under sub-sec. (2) of this section or sub-sec. (2) of Sec. 23 may, within sixty-days from the communication to him of such order, appeal to the State Government and the decision of the State Government in such appeal shall be final and shall not be called in question in any court.

(5) An order under sub-sec. (2) shall not take effect until the

expiry of three months from the date thereof or until an appeal under sub-sec. (4) is disposed of, whichever date is later.

**18. Surrender of certificate :-**

A person whose name has been removed from the register under sub-sec. (1) or sub-sec. (2) of Sec. 17, or sub-sec. (2) of Sec. 23, or where such person is dead, his legal representative, as defined in clause (11) of Sec. 2 of Code of Civil Procedure, 1908 (5 of 1908), shall forthwith surrender his certificate of practice to the Registrar and the name so removed shall be published in the Official Gazette.

**19. Restoration of name to register :-**

The Council may, at any time for reasons appearing to it to be sufficient and subject to the approval of the State Government, order that upon payment of such fee as may be prescribed by rules, the name of the person removed from the register shall be restored thereto.

**20. Issue of duplicate certificates :-**

Where it is shown to the satisfaction of the Registrar that a certificate of practice has been lost or destroyed, the Registrar may, on payment of such fee as may be prescribed by rules, issue a duplicate certificate in such form as may be prescribed by rules.

**21. Printing of register :-**

As soon as may be after the 1st day of April in each year, the Registrar shall cause to print copies of the register as it stood on the said date and such copies shall be made available to persons applying therefore on payment of such fee as may be prescribed by rules and shall be evidence that on the said date the persons whose names are entered therein were professional civil engineers.

CHAPTER 4  
MISCONDUCT

**22. Professional conduct :-**

(1) The Council may by regulations prescribe standards of professional conduct and etiquette and a code of ethics for professional civil engineers.

(2) The regulations made by the Council under sub-sec. (1) may specify which violations thereof shall constitute infamous conduct in any professional respect, that is to say, professional misconduct, and such provisions shall have effect notwithstanding anything

contained in any law for the time being in force.

### **23. Procedure in inquiries relating to misconduct :-**

(1) When on receipt of a complaint made to it, the Council is prima facie of opinion that any professional civil engineer has been guilty of professional misconduct which, if proved, would render him unfit to practice as a professional civil engineer, the Council may hold an inquiry in such manner as may be prescribed by rules.

(2) If after holding the inquiry under sub-sec. (1) and giving him an opportunity of being heard, the Council is of the opinion that the professional civil engineer has been guilty of professional misconduct, it may, by order, reprimand the said professional civil engineer or suspend him from practice as a professional civil engineer or remove his name from the register or pass such other order as it thinks fit.

#### **CHAPTER 5**

#### **MISCELLANEOUS**

### **24. Penalty for falsely claiming to be registered :-**

(a) If any person whose name is not for the time being entered in the register, falsely represents that it is so entered, or uses in connection with his name or title any words or letters reasonably calculated to suggest that his name is so entered, or

(b) if any person being registered as a professional civil engineer but not having a certificate of practice represents that he is in practice or practices as a professional civil engineer; he shall be punishable with fine which may extend to five thousand rupees.

### **25. Prohibition against use of title :-**

(1) After the expiry of six months from the date of the preparation of the register, no person other than a registered professional civil engineer, or a firm of professional civil engineers shall use the title and style of professional civil engineer.

(2) If any person contravenes the provisions of sub-sec. (1), he shall be punishable on first conviction with fine which may extend to five lakh rupees and on any subsequent conviction with imprisonment which may extend to six months or with fine not exceeding ten lakh rupees or with both.

### **26. Unqualified persons not to certify engineering designs**

:-

(1) Notwithstanding anything contained in any law for the time being in force, after the expiry of two years from the commencement of this Act, no person shall certify an engineering design of

(a) a building the plinth area of which exceeds one hundred and forty square meters; or

(b) a building the height of which exceeds the normal height of a building having the ground floor and first floor; or

(c) a building which does not have load bearing type masonry structure; or

(d) a building which is a part of a larger housing project comprising not less than three buildings, notwithstanding the plinth area of such building is one hundred and forty square meters, or less than one hundred and forty square meters; unless he is a professional civil engineer.

(2) Any person contravening the provisions of sub-sec. (1) shall, without prejudice to any other proceedings which may be taken against him, be punishable with fine which may extend on first conviction to five thousand rupees and on any subsequent conviction with imprisonment which may extend to six months or with fine not exceeding ten thousand rupees or with both.

### **27. Failure to surrender certificate of practice :-**

If any person whose name has been removed from the register fails without sufficient cause forthwith to surrender his certificate of practice, he shall be punishable with fine which may extend to fifty thousand rupees, and in the case of a continuing failure, with an additional fine which may extend to ten thousand rupees for each day after the first during which he has persisted in the failure.

### **28. Cognisance of offences :-**

(1) No Court shall take cognisance of any offence punishable under this Act, except upon complaint made by order of the Council or a person authorised in this behalf by the Council.

(2) No Magistrate other than a Metropolitan Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

**Authority not to permit construction unless engineering design is certified by professional civil engineer.**

**Cognisance of offences :-**

**30. Information to be furnished by Council and publication thereof. :-**

(1) The Council shall furnish such reports, copies of the minutes and other information to the State Government as the Government may require.

(2) The State Government may publish, in such manner as it may think fit, any report, copy or other information to it under this section.

**31. Protection of action taken in good faith :-**

No suit, prosecution or other legal proceeding shall lie against the State Government, the Council or any member of the Council, or officers and other employees of the Council for anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder.

**32. Members of Council and officers and employees to be public servants :-**

The members of the Council and officers and other employees of the Council shall be deemed to be public servants within the meaning of Sec. 21 of the Indian Penal Code (45 of 1860).

**33. Power to remove difficulties :-**

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provision, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty: Provided that no such order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the State Legislature.

**34. Power to make rules :-**

(1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the

foregoing power, such rules may provide for all or any of the following matters, namely:

- (a) the manner in which the elections under Chapter II shall be conducted, the terms and conditions of service of the member of the Tribunal appointed under sub-sec. (2) of Sec. 5 and the procedure to be followed by the Tribunal;
- (b) the fee to be paid under sub-sees. (1) and (3) of Sec. 14, sub-sec. (2) of Sec. 15 and Sees. 19, 20 and 21;
- (c) the form in which a certificate of practice is to be issued under sub-sec. (5) of Sec. 14;
- (d) further particulars to be included in the register under clause (d) of sub-sec. (2) of Sec. 16;
- (e) the form in which a duplicate certificate is to be issued under Sec. 20;
- (f) the fee for supplying printed copies of the register under Sec. 21;
- (g) the manner in which the Council shall hold an inquiry under sub-sec. (1) of Sec. 23;
- (h) any other matter which is to be or may be provided by rules under this Act.

(3) The power to make rules conferred by this section shall be subject to the condition of the rules being made under previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette, and shall thereupon take effect.

### **38. Power to make regulations :-**

(1) The Council may, with the approval of the State Government make regulations not inconsistent with the provisions -of this Act or

the rules made thereunder, to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for

(a) the management of the property of the Council;

(b) the powers and duties of the President and the Vice-President under sub-sec. (3) of Sec. 4;

(c) the summoning and holding of meetings of the Council, the times and places at which such meetings shall be held; the conduct of business there at and the number of persons necessary to constitute a quorum under Sec. 9;

(d) the period of experience of working as a civil engineer to be possessed by a person for being eligible to appear at the examination under clause (d) of sub-sec. (1) of Sec. 14;

(e) the examination in which persons referred to in clauses (a) to (d) of the said sub-sec. (1) of Sec. 14 shall be eligible to appear;

(f) the manner in which the qualifications and experience shall be verified by the Council under sub-sec. (2) of Sec. 14;

(g) the manner in which an application is to be made and granted under sub-sec.

(3) of Sec. 14;

(h) the standards of professional conduct and etiquette and a code of ethics to be observed by the professional civil engineer under Sec. 22;

(i) any other matter which is to be or may be provided by regulations under this Act.