

Act Governing the Administration of Professional Engineering Consulting Firms

Promulgated under the Presidential Order dated July 2, 2003

Chapter One General Provisions

- Article 1** This Act is duly enacted in an effort to assure sound administration of the professional engineering consulting firms, upgrade the quality of engineering technology related services and safeguard the public.
With regard to the matters not provided for in this Act, other relevant laws shall govern.
- Article 2** This Act “competent authority” as set forth herein denotes the Public Construction Commission of the Executive Yuan.
- Article 3** This Act “professional engineering consulting firms” as set forth herein denotes the firms which engage in rendering technological services about the activities performed above or underneath the ground for building, augmenting, altering, repairing, or dismantling structures and their respective auxiliary equipment/facilities, or reforming natural environment, or other engineering services as accredited by the competent authority, including planning and feasibility studies, basic designs, detailed designs, in support of open tenders and awards, construction supervision, project management and other relevant technological services.
- Article 4** The scope of business lines registered by a professional engineering consulting firm may include civil engineering, hydraulic engineering, structural engineering, geotechnical engineering, surveying, environmental engineering, urban planning, mechanical engineering, refrigeration and air-conditioning engineering, electrical engineering, electronic engineering, chemical engineering, industrial engineering, industrial safety engineering, soil and water conservation engineering, applied geology engineering, traffic engineering and engineering in other categories as accredited by the competent authority.
- Article 5** The chairperson of the board of directors or the statutory representative of a professional engineering consulting firm shall be served by a licensed professional engineer except the following firms:
1. A firm hires a minimum of twenty licensed professional engineers.
 2. A firm is listed on either the Taiwan Stock Exchange (TSE) or Over-the-Counter (OTC).
 3. Where the Republic of China has executed a treaty of an international organization in an equal and reciprocal principle and where a firm of a member country has established a subsidiary or branch in the Republic of China, that foreign firm has been in business in its mother country for five years minimum since it was incorporated and has undertaken domestic, overseas engineering technological consultation services amounting to NT\$2 billion minimum in accumulation over the past five years.
 4. A technological consulting organization which has obtained the technological consulting organization registration certificate in accordance with the Regulations Governing the Administration of Technological Consulting Organizations prior to enforcement of this Act; the chairperson or statutory representative of such organization has not been served by a licensed

professional engineer, and such organization has been staffed with three licensed professional engineers minimum or has been staffed with two licensed professional engineers, including one as the manager and the other as the shareholder.

The licensed professional engineers hired by a professional engineering consulting firm shall include one who has accumulated seven years of practical engineering experiences minimum which shall include two-year project manager experience minimum.

A professional engineering consulting firm shall, on the grounds of various categories of the registered business scope, provide one licensed professional engineer minimum for each and every category.

Article 6 In a professional engineering consulting firm, the directors, shareholders taking charge of business operation or representing the firm shall include one-third minimum as the licensed professional engineers within the firm's registered business scope except a firm staffed with twenty licensed professional engineers minimum or a firm listed on either the TSE or OTC

Article 7 In a professional engineering consulting firm, the managerial officer in charge of engineering technological services or the responsible person in charge of the engineering technology department shall be served by licensed professional engineers.

Chapter Two Permission and Registration

Article 8 A professional engineering consulting firm shall first obtain permission from the competent authority before being entitled to apply for incorporation or alteration registration. After completing the incorporation or alteration registration, it shall apply to and obtain from the competent authority the registration certificate for professional engineering consulting firm and shall further join the National Association of the Professional Engineering Consulting firms (hereinafter referred to as the National Association) or the local association of the professional engineering consulting firms before starting up business operation.

A professional engineering consulting firm shall, within three months from obtaining permission, complete the incorporation or alteration registration and apply to the competent authority for issuance of the registration certificate for the professional engineering consulting firm. If it fails to complete such procedures within the specified time limit, the competent authority shall revoke or abolish the permission and keep the competent authority in charge of the incorporation registration informed of the revocation or abolition. Where backed by a justifiable reason, nevertheless, the firm may apply for an extension within the maximum limit of three months.

Where a foreign firm engages in business operation defined under Article 3 in the territories of the Republic of China, it shall be subject to permission from the competent authority, recognition registration and branch registration by the competent authority in charge of incorporation registration. It shall further obtain from the competent authority the registration certificate for professional engineering consulting firm and shall join the National Association or the local association before starting up business operation.

The permission, recognition, branch registration, issuance of the registration certificate and the administration as mentioned in the preceding paragraph shall be

duly conducted in accordance with this Act, relevant laws and regulations, and the treaties or agreements to which this nation is a party.

Article 9 An operator of the professional engineering consulting firm shall fill out an application form and submit it along with the documents enumerated below to the competent authority for permission:

1. Certificate in photocopy verifying the responsible person's address and domicile. If lacking an address and domicile in Taiwan, the address of the agent appointed by the firm in Taiwan shall be submitted.
2. Roster of the will-be directors, shareholders taking charge of business operation or representing the firm.
3. Roster of the will-be licensed professional engineers and the certificates in photocopy identifying the services they can practice.
4. Scope of anticipated business lines.
5. Other documents as required by the competent authority.

Article 10 A professional engineering consulting firm which has completed incorporation or alteration registration shall fill out an application form and submit it along with the documents enumerated below to the competent authority for issuance of the registration certificate for professional engineering consulting firm:

1. Permission documents and document of incorporation registration, one photocopy each.
2. Roster of directors, supervisor(s), shareholders in charge of business operation or representing the company.
3. Roster of the managerial officer in charge of technological services or the responsible person in charge of the technology department.
4. Roster of licensed professional engineers and their employment agreements duly notarized or attested, one photocopy each, provided that the employment agreement may be dispensed with for the chairperson or the statutory representative, the manager of a foreign firm's Taiwan branch.
5. Other documents as required by the competent authority.

Article 11 Where the competent authority during the review process rule that the application by a professional engineering consulting firm for permission or issuance of the registration certificate is nonconforming with the requirement, the competent authority shall inform the applicant to make up the insufficiency within fifteen days if the insufficiency may be made up, and shall dismiss the application if the insufficiency is not made up within the specified time limit or if the makeup proves incomplete.

Chapter Three Supervision

Article 12 The licensed professional engineers who are hired to serve a professional engineering consulting firm or who organize a professional engineering consulting firm shall duly apply for or alter their licenses within fifteen days from the day next to the time when the professional engineering consulting firm obtains the registration certificate or when the licensed professional engineers report for duty.

Article 13 The licensed professional engineers who are hired to serve a professional engineering consulting firm or who organize a professional engineering consulting firm shall

serve the duties on an exclusive (full-time) and continual basis and shall exclusively serve that firm.

Article 14 Where a licensed professional engineer quits or is penalized by being suspended from practice, the professional engineering consulting firm shall report such fact to the competent authority for information within fifteen days. If the firm violates Article 5 because of such fact, it shall hire a new licensed professional engineer within one month.

During the period while the professional engineering consulting firm violates Article 5, the firm may, for business contract(s) having been accepted, subject to consent from the client(s), terminate the contract(s) or consign another professional engineering consulting firm or a licensed professional engineer who has established a office to carry out the business.

Article 15 In case of a change in the registration certificate, or a change in director(s), shareholder(s) in charge of business operation or representing the firm, the firm shall, within thirty days from the day next to the occurrence of the change, apply to the competent authority for permission for the change and shall, within fifteen days from getting permission, apply to the competent authority in charge of incorporation registration for alteration of registration.

In the event that the change mentioned in the preceding paragraph is a change in the registration certificate, the firm shall apply to the competent authority for replacement of the registration certificate for professional engineering consulting firm within fifteen days. The permission of change mentioned in the preceding paragraph is valid for three months and the competent authority may revoke the permission of change when beyond the time limit and will inform the competent authority in charge of incorporation registration. Where backed by a justifiable reason, nevertheless, the firm may apply for an extension within the maximum limit of three months.

In case of a change in the supervisor(s) or the licensed professional engineer(s), the firm shall, within thirty days from the day next to the occurrence of change, apply to the competent authority with supporting certificates for alteration of the roster of the supervisor(s) or the licensed professional engineer(s).

Article 16 A professional engineering consulting firm shall not rent or lend its registration certificate for professional engineering consulting firm to another for use.

Article 17 When rendering engineering technological services, the professional engineering consulting firms shall not go beyond the scope of business operation as set forth in the registration certificate.

The professional engineering consulting firms shall have the engineering technological services rendered only through licensed professional engineers. All drawings and documents so worked out during the services shall be duly signed by such licensed professional engineers and shall be subject to certification according to laws and regulations.

The professional engineering consulting firms and the ones assigned to oversee business operation shall not have the hired licensed professional engineers violate laws or regulations or breaching the supposed duties when rendering services.

Article 18 In the event that a professional engineering consulting firm takes the initiative to shut business down or is penalized for business shutdown, it shall surrender the registration certificate for the professional engineering consulting firm to the competent authority which will return the certificate after making remarks of such

facts. The same procedures shall be required when it resumes business operation.

In the event that a professional engineering consulting firm is revoked or abolished from registration or receives a penalty for business shutdown, it shall no longer receive any order. For the order(s) having been accepted but still outstanding, it may consign a professional engineering consulting firm of the same business scope to continually fulfill the order(s).

Where a professional engineering consulting firm has been suspended from business operation for over one year, the competent authority may abolish its permission or revoke its registration certificate and shall inform the competent authority in charge of incorporation registration to abolish the incorporation registration or registration in part except in a case when the firm is backed by a justifiable reason and approved by the competent authority.

Article 19 Where a professional engineering consulting firm is dissolved, it shall inform the competent authority within fifteen days from termination of business operation and shall, meanwhile, surrender the registration certificate for professional engineering consulting firm. If it fails to surrender within the specified time limit, the competent authority may revoke the registration through a public announcement.

Article 20 Professional engineering consulting firms shall be insured against professional liability risks in a manner of mandatory insurance on a case-by-case basis. The minimum insurance amount shall be determined by the competent authority in concert with the Ministry of Finance.

The insurance applicant shall not withdraw the insurance against professional liability risks mentioned in the preceding paragraph unless consented by the client. In case of a change, rescission or termination of the insurance contract, both the insurance applicant and the insurer shall inform the client in writing.

Article 21 The professional engineering consulting firms shall, within six months from the time next to the closure of a fiscal year, submit the business report as required by the competent authority to the competent authority for information.

The professional engineering consulting firms shall work out the aforementioned business report on a faithful basis and shall archive the report for a minimum of ten years from the date on which the report are submitted.

Article 22 The competent authority may at anytime assign official(s) to look into the business operation rendered by the professional engineering consulting firms and the matters such firms or their licensed professional engineers shall observe under this Act. During the inspection process, the competent authority may order submission of the relevant supporting certificates, books and information. The professional engineering consulting firms or their licensed professional engineers shall not evade, impede or refuse the competent authority's inspection.

Article 23 The professional engineering consulting firms shall budget funds for research and development and human resources development on an annual basis, in an amount not below 0.5% of the total revenues of engineering technological services received in the year.

Article 24 Professional engineering consulting firms shall join the National Association in the place where the Central Government is located or the local association.

Article 25 The National Association or the local association shall not reject application from professional engineering consulting firms for membership accreditation.

In the event that the National Association or the local association rejects application

from a professional engineering consulting firm for membership accreditation without a justifiable reason, the professional engineering consulting firm shall be deemed having been accredited after the firm is approved by the central competent authority in charge of the commercial organizations.

Chapter Four Guidance, Rewards & Penalties

Article 26 To upgrade the engineering technological level and ensure sound development of professional engineering consulting firms, the competent authority may render incentives and guidance to professional engineering consulting firms. The facts entitled to incentives, methods and regulations for guidance shall be enacted by the competent authority.

Article 27 A professional engineering consulting firm meeting any of the following facts shall be ordered for business shutdown and subject to a penalty ranging from NT\$500,000 as minimum and NT\$2.5 million as the maximum:

1. Violating Article 8, Paragraph 1 by rendering business operation without obtaining the registration certificate from the competent authority.
2. Violating provision set forth in Article 16.
3. Violating Article 18, Paragraph 2 by contracting projects during the suspension period.

In violation of Subparagraphs 2 and 3 of the preceding paragraph, the competent authority shall abolish its permission and revoke its registration certificate and inform the competent authority in charge of incorporation registration to abolish its incorporation registration or the registration in part.

Article 28 One who borrows, leases, fakes or alters the registration certificate for professional engineering consulting firm shall be subject to a penalty ranging from NT\$500,000 as the minimum and NT\$2 million as the maximum.

Article 29 Where a professional engineering consulting firm meets any of the following facts, the competent authority shall order that corrective action be completed within the specified time limit. In the event that the firm fails to complete the corrective action within the specified time limit or repeats the violation after corrective action, the firm shall be subject to a penalty ranging from NT\$100,000 as the minimum and NT\$500,000 as the maximum. The competent authority may impose penalties successively for each violation and demand that the corrective action be completed within the specified time limit. In a gross violation, the competent authority may suspend the firm from business operation for a period ranging from one month as the minimum to one year as the maximum:

1. Violating provisions set forth in Article 5.
2. Violating provisions set forth in Article 6.
3. Violating provisions set forth in Article 7.
4. Violating provisions set forth in Article 13.
5. Violating provisions set forth in Article 17.
6. Violating provisions set forth in Article 20, Paragraph 2.
7. Violating provisions set forth in Article 22 by refusing, impeding or evading the inspection.

The one who has been assigned by a professional engineering consulting firm to

oversee the business operation shall be subject to the penalty as set forth in the preceding paragraph if violating Article 17, Paragraph 3.

Where a professional engineering consulting firm meets any facts set forth in Paragraph 1 in gross offense, the competent authority may abolish its permission and revoke its registration certificate and inform the competent authority in charge of incorporation registration to abolish its incorporation registration or revoke registration in part.

Article 30 Where a licensed professional engineer of a professional engineering consulting firm violates business related laws or regulations while rendering business operation, the licensed professional engineer shall be penalized in accordance with the laws and or regulations concerned. Except for the situations below, the competent authority may impose upon the professional engineering consulting firm a penalty ranging from NT\$100,000 as minimum and NT\$500,000 as maximum and demand that the firm to oversee its licensed professional engineer to complete corrective action within the specified time limit. Should the licensed professional engineer fail to complete the corrective action within the specified time limit, the penalty may be imposed successively until the corrective action is satisfactorily completed:

1. Where the professional engineering consulting firm has tried by all available means to prevent the violation from occurring.
2. Where other laws or regulations concerned call for a stiffer penalty.

Article 31 Where the National Association or a local association violates any situations set forth in Article 25, Paragraph 1, the competent authority in charge of the commercial organizations may impose a penalty ranging from NT\$100,000 as the minimum and NT\$500,000 as the maximum.

Article 32 Where a professional engineering consulting firm meets any of the following facts, the competent authority shall order that corrective action be completed within the specified time limit. In the event that the firm fails to complete the corrective action within the specified time limit or repeats the violation after the corrective action, the firm shall be subject to a penalty ranging from NT\$20,000 as the minimum and NT\$100,000 as the maximum. The competent authority may impose penalties successively for each violation and demand that the corrective action be completed within the specified time limit. In a gross violation, the competent authority may impose a penalty of a warning:

1. Violating provisions set forth in Article 8, Paragraph 1 by rendering business operation without joining the association.
2. Where its licensed professional engineer(s) violate(s) Article 12.
3. Violating provisions set forth in Article 14, Paragraph 1 by failing to report to the competent authority for information when its licensed professional engineer(s) quit(s) or receive(s) penalty for suspension from business; or violating Article 14, Paragraph 2 by failing to terminating the contract or consign the business for the business contract(s) having been accepted.
4. Violating provisions set forth in Article 15, Paragraph 1 by failing to apply with the competent authority for the permission for change of entries specified in the firm's registration certificate, director(s), or shareholder(s) in charge of business operation or representing the firm; or violating Article 15, Paragraph 2 by failing to get the registration certificate replaced; or violating Article 15, Paragraph 3 by failing to apply for a change in the roster of the supervisor(s) or the licensed professional engineer(s).

5. Violating provisions set forth in Article 21.
6. Violating provisions set forth in Article 23.

Article 33 Where a professional engineering consulting firm has received up to three warning penalties in accumulation within five years, the competent authority shall impose a penalty for suspension from business operation for a period ranging from three months as minimum to one year as maximum. Where a professional engineering consulting firm has received up to three suspension penalties in accumulation within five years, the competent authority may abolish its permission and revoke its registration certificate and inform the competent authority in charge of incorporation registration to abolish its incorporation registration or revoke registration in part.

Article 34 Where a professional engineering consulting firm receives a penalty from the competent authority by revoking or abolishing its permission and revoking its registration certificate for professional engineering consulting firm, its directors, shareholders in charge of business operation or representing the firm, or the manager of a foreign firm's branch in Taiwan shall not apply for incorporation of a professional engineering consulting firm in accordance with this Act within three years from the day next to revocation or abolition of the permission and revocation of the registration certificate.

Article 35 Where a licensed professional engineer violates provisions set forth in Article 12, Article 13 or Article 17, Paragraph 2 and receives demand from the competent authority that the corrective action be completed within the specified time limit but fails to complete the corrective action within the specified time limit or repeats the offense after the corrective action, the competent authority shall, in addition to the penalty imposed upon the professional engineering consulting firm in accordance with this Chapter, refer the case in accordance with the Professional Engineers Act for discipline.

Chapter Five Supplementary Provisions

Article 36 Where a firm has been incorporated prior to enforcement of this Act and where its registered business lines include those set forth in Article 3 and where it has not obtained the technological consulting organization registration certificate in accordance with the Regulations Governing the Administration of Technological Consulting Organizations, such firm shall, within six months from enforcement of this Act, apply to the competent authority for permission and for issuance of the registration certificate for the professional engineering consulting firm. If it fails to complete such procedures within the specified time limit, the competent authority shall inform the competent authority in charge of incorporation registration to revoke its incorporation registration or revoke part of its registration.

Article 37 In case of a technological consulting organization which has obtained the technological consulting organization registration certificate in accordance with the Regulations Governing the Administration of Technological Consulting Organizations prior to enforcement of this Act, such organization shall, within two years from enforcement of this Act, apply for replacement into the registration certificate for the professional engineering consulting firm; If it fails to complete such procedures within the specified time limit, the competent authority shall abolish its original permission, revoke its technological consulting organization registration certificate, and inform the competent authority in charge of incorporation registration to revoke its incorporation registration or revoke part of its registration. In case of a foundational judicial person where the competent authority approves, such judicial

person may apply for an extension within two years maximum.

To the administration of the technological consulting organizations mentioned in the preceding paragraph, this Act is applicable.

- Article 38** The supporting certificates submitted under this Act, if in foreign language(s), shall be duly notarized or attested by the local notary public office or attesting institutions and shall be further accompanied with the Chinese translation version which duly authenticated or attested by the Republic of China's embassy, consulate, representative office or other institutions authorized by the Ministry of Foreign Affairs.
- Article 39** The competent authority may, as the actual requirements may justify, assign the matters required under this Act to the municipal, county (city) governments or consign non-government professional organizations to take charge.
- Article 40** The competent authority shall issue public announcement upon issuance or replacement of the registration certificates for professional engineering consulting firms. The same procedures shall be handled in the event that the competent authority approves of a professional engineering consulting firm in suspending or resuming business operation.
- Article 41** For application for permission, review, attestation and issuance of certificates entertained under this Act, the permission fee, review fee, attestation fee and certificate fee shall be charged from the applicants. The criteria of the fees shall be prescribed by the competent authority.
- Article 42** All documents and formats required under the Act shall be prescribed by the competent authority.
- Article 43** The Enforcement Rules of this Act shall be enacted by the competent authority.
- Article 44** This Act comes into enforcement upon the date of promulgation.