CHAPTER 321

ENGINEERING PROFESSION ACT

To regulate the engineering profession and to provide for matters connected therewith or ancillary thereto.

22nd February, 1988;
1st June, 1988;
1st September, 1990;
1st December, 1993;
1st October, 1995;
1st December, 1998

ACT VII of 1988 as amended by Acts V of 1990 and XVIII of 2002; Legal Notice 424 of 2007; Act XXIII of 2009; and Legal Notice 335 of 2010.

1. The short title of this Act is the Engineering Profession Act.

Short title.

2. In this Act, unless the context otherwise requires -

Interpretation. *Amended by: XXIII. 2009.52.*

"Board" means the Engineering Profession Board established by article 6;

"Engineer" means a person who has obtained a degree in engineering from the University of Malta or from a foreign institution recognised as equivalent;

"Member State" means a Member State of the European Economic Area;

"Minister" means the Minister responsible for works and, to the extent of any functions delegated to it by the Minister, includes the Board;

"prescribed" means prescribed by regulations under this Act;

"profession of engineer" means the profession practised by an engineer who is a warrant holder;

"service provider" means a person from any Member State or any country in the European Economic Area who exercises the engineering profession on a temporary basis in Malta;

"warrant" means a warrant granted under article 4; and "warrant holder" shall be construed accordingly.

3. (1) No person shall practise the profession of engineer unless he is the holder of a warrant issued under article 4.

Conditions required to qualify for a warrant. *Amended by: XXIII. 2009.53.*

(2) A person shall not qualify for a warrant unless -

(*a*) he is a citizen of Malta or of a Member State or is otherwise legally entitled to work in Malta;

(*b*) he is of good conduct;

(*c*) he is of full legal capacity; and

(*d*) he shall satisfy the Board that -

(i) he is in possession of such degree of the

University of Malta or an equivalent academic qualification relating to the engineering profession both of which, at the relevant time, are recognised by the Board to be sufficient for the purposes of this article;

(ii) for the period of not less than one year before or after obtaining the qualification referred to in sub-paragraph (i) he has undergone practical engineering training approved by the Board; and

(iii) for a period of not less than two years after obtaining the qualification referred to in sub-paragraph (i) he has trained in the practice of the profession under the supervision of a practising engineer.

(3) Notwithstanding the provisions of subarticle (2)(*d*), a person who on the 1st day of January, 1988 had already for a period of not less than fifteen years before that date occupied a responsible engineering position, may be exempted by the Board from having the requirements of subarticle (2)(*d*), and after passing a professional and academic assessment by the Board, may, if he satisfies paragraphs (*a*), (*b*) and (*c*) of that subarticle, be granted a warrant.

(4) A request for the exemption referred to in subarticle (3) must be made to the Board not later than a year after the coming into force of this article*:

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Provided that a person who has obtained the warrant of architect and civil engineer under the Periti Act may not at the same time obtain the warrant of engineer.

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(5) Subarticle (2) shall be interpreted in accordance with the Recognition of Professional Qualifications Regulations.

Acknowledgement of receipt of an application. *Added by: XXIII. 2009.54.*

3A. (1) The Board shall acknowledge the receipt of an application for a warrant as soon as possible and in any case not later than one month from the date of the receipt of the application. If the applicant does not submit all the documentation, the Board shall inform the applicant accordingly.

(2) The Board shall complete the procedure for examining applications as early as possible. The Board shall give its reasoned decision within three months after the date on which the complete application is received. The Board may extend this period by one month, provided that the applicant is notified prior to the expiration of the original period established in this sub-article.

(3) In the event that the Board does not give its decision within the period established in sub-article (2), this shall not imply tacit approval of the application.

*Article 3(1) of came into force on 10th October, 1995, by virtue of Legal Notice 70 of 1995. Subarticles (2) and (3) of the said article 3 came into force on 1st September, 1990, by virtue of Legal Notice 130 of 1990. Subarticle (4) was originally paragraph (*b*) of subarticle (3) and consequently came into force on 1st September, 1990, as part of subarticle (3).

(4) The acknowledgement referred to in sub-article (1) shall specify:

(*a*) the time period within which the application shall be processed;

(*b*) the available means of redress; and

(*c*) a statement that in the absence of a response within the specified time period, the authorisation shall not be deemed to have been granted.

Warrant to practise as engineer.

4. (1) The warrant to practise the profession of engineer shall be issued by the Minister on the recommendation of the Board to any person who satisfies the requirements of subarticle (2), and, where applicable, the provisions of articles 3(3) and (4) .

(2) A warrant holder may use the designation "Inġinier" or its abbreviation "Inġ." with his name.

Grant of special licence to exercise profession of engineer.
Amended by: XXIII. 2009.55.

5. (1) Notwithstanding the provisions of article 3(2), the Minister may, after consulting the Board, grant a special licence to any person holding academic qualifications at least equivalent to those listed in article 3(2)(*d*) and who is a national of a country outside the European Union or the European Economic Area, and therefore does not fall within the ambit of articles 3 and 5B and holding foreign professional engineering qualifications acceptable to the Board, to exercise that profession in Malta for a definite time and for a particular purpose and subject to such other conditions as may be specified in the licence.

(2) A person to whom a special licence is granted under the preceding subarticle shall be deemed to be a warrant holder during the time and for the purpose specified in the licence and the provisions of this Act and of any other law shall apply to him in the same manner and to the same extent like any other warrant holder.

Regulations in relation to mutual recognition of qualifications.
Added by: XVIII. 2002.10.
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5A. The Minister may make regulations for bringing into effect the provisions of the Mutual Recognition of Qualifications Act and subsidiary legislation issued thereunder, in relation to the mutual recognition of qualifications of engineer.

Temporary provision of services.
Added by: XXIII. 2009.56.
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5B. (1) Without prejudice to the Mutual Recognition of Qualifications Act and notwithstanding the provisions of article 3 of this Act, any person established in another Member State may practise the profession of engineer in Malta on a temporary and occasional basis provided that such person:

(*a*) is legally established in another Member State for the purpose of pursuing the engineering profession in that Member State; and

(*b*) has pursued the engineering profession for at least two years during the ten years immediately preceding the provision of services where the engineering profession is not regulated in that Member State.

(2) Persons referred to in subarticle (1) shall inform the Board

by means of a written declaration to be made in advance which shall include the following:

(*a*) the details of an insurance cover or other means of personal or collective protection relative to professional liability. This declaration shall be made once a year if the applicant intends to provide temporary or occasional services during the year;

(*b*) proof of the nationality of the applicant;

(*c*) an attestation certifying that the warrant holder is legally established in a Member State for the purpose of pursuing the activities concerned and that he is not prohibited from practising the profession of engineer even temporarily, at the moment of delivering the attestations;

(*d*) evidence of professional qualifications; and

(*e*) where applicable, any means of proof that the applicant has pursued the engineering profession for at least two years during the previous ten years immediately preceding the provision of services.

(3) Where the Board, in exercising its authority under this article, deems that there is a substantial difference between the professional qualifications of the applicant and the academic qualifications required under article 3(2)(*d*)(i), to the extent that the difference is such as to be harmful to public health, safety and security, the Board shall give the applicant the opportunity to show, in particular by means of an aptitude test, that he has acquired the knowledge or competence which he lacks.

(4) The Board shall assess the temporary and occasional nature of the provision of the engineering services on a case by case basis.

(5) (*a*) The Board shall give its decision within one month from the date of receipt of the declaration referred to in sub-article (2).

(*b*) Whenever a decision could not be given during the established time, the Board shall notify this information to the applicant within the period established in paragraph (*a*). The Board shall extend this period only once for another period of one month.

(*c*) In the event that the Board does not give its decision within the period referred to in paragraph (*b*), the engineering services falling under this article may be provided.

(6) A person exercising the profession under this article shall be deemed to be a warrant holder and the provisions of this Act and of any other law shall apply to him in the same manner and to the same extent as with any other warrant holder.

Engineering Board.
Amended by: V. 1990.2; XXIII. 2009.57.

6. (1) There shall be a Board, to be known as the Engineering Profession Board, which shall consist of -

(*a*) a chairman to be appointed by the Minister from among persons who are or have been qualified to be appointed judges in Malta;

(*b*) three members appointed by the Minister from among warrant holders, one of whom shall be a member of the academic staff of the Faculty of Engineering of the University of Malta; and

(*c*) three members who shall be elected by secret ballot by warrant holders from among themselves:

Provided that not more than two of the elected members shall be warrant holders practising in the same field of the profession.

(2) The Chairman and the appointed members of the Board shall hold office for such term not exceeding three years and under such conditions as may be set out in their letter of appointment. The elected members of the Board shall hold office for a period of two years.

(3) Until such time as the Minister may by notice in the Gazette establish, subarticle (1)(*b*) and (*c*) shall not be in force, and the Minister shall appoint six members of the Board from among persons who in his opinion qualify for the warrant. Such members shall hold office for a period not exceeding one year and shall be eligible for reappointment.

(4) The members of the Board shall, on the expiration of the term of their office, be eligible to be reappointed or re-elected, as the case may be.

(5) When any vacancy in the Board occurs the Minister shall, as soon as practicable, in the case of an appointed member, appoint another person to fill the vacancy, and in the case of an elected member, cause an election to be held to fill the vacancy.

(6) The number of members necessary to form a quorum shall be three, but, subject to the presence of a quorum, the Board may act notwithstanding any vacancy among its members.

(7) The Minister may also designate a public officer to act as secretary to the Board, but such secretary shall not have a vote.

(8) Save as aforesaid the Board may make its own rules and otherwise regulate its own procedure.

(9) The Board shall, in the fulfilment of its functions, act independently and impartially.

Functions of the Board.

7. (1) The functions of the Board are -

(*a*) to consider applications for the issue of a warrant and make its recommendations thereon to the Minister;

(*b*) to hold enquiries regarding any charge of professional misconduct or abuse made against any engineer in connection with the exercise of his profession or with professional matters, saving the provisions of the Criminal Code or of any other law;

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(*c*) to deal with cases leading to the suspension or withdrawal of a warrant, or of a special licence granted under article 5, as provided by or under this Act;

(*d*) to advise, or make recommendations or otherwise express its views, to the Minister on any matter on which the Minister is to consult with the Board or on which the Board is to make recommendations to the Minister or on which the opinion or recommendation of the Board is sought by the Minister;

(*e*) to perform such other functions as arise from this Act or any other law or as may be delegated to it by the Minister under this Act.

(2) In the exercise of its functions under subarticle (1)(*d*) and (*e*), the Board may consult with such persons as it may deem appropriate, and in the exercise of its functions under subarticle (1)(*c*), (*d*) and (*e*), may also appoint committees, of which the Chairman shall be a member of the Board, for the carrying out of such studies or other work as the Board may assign to them.

(3) The Board shall, not later than three months after the end of each year, publish in the Gazette a list of persons who, on the 31st December of the said year, were holders of a warrant issued under this Act. Such list may, with the approval of the Minister, be divided into separate parts, each part containing the list of warrant holders qualified in separate fields of engineering.

Appeals.
Added by: XXIII. 2009.58.
Amended by: L.N. 335 of 2010.
Cap. 490.

7A. (1) Decisions of the Board shall be subject to appeal before the Administrative Review Tribunal established by article 5(1) of the Administrative Justice Act.

(2) When any person is dissatisfied with any decision of the Board taken in his regard, he may appeal to the said Tribunal against such decision not later than twenty days of service upon him of the Board's decision.

(3) The Administrative Review Tribunal may, in its determination on any appeal entered in accordance with subarticle (1), confirm, reverse or vary, in whole or in part, the original decision.

Partnerships of engineers.

8. (1) Two or more warrant holders may form a civil partnership, hereinafter referred to as "partnership of engineers", having for its exclusive object the practice of engineering and such powers as are necessary for the attainment of the objects of the partnership.

(2) No person other than a warrant holder may be a partner in a partnership of engineers.

(3) Any such partnership shall, when duly formed according to

law and on payment of the prescribed fee, be registered with the Board, and upon such registration the partners shall, for as long as it is so registered, be authorised to act in the name and on behalf of the partnership which shall be entitled to the designation "Inġiniera".

(4) Every such partnership shall give to the Minister or to the Board such information as they may reasonably require or as may be prescribed, and shall give notice to the Minister or to the Board of any relevant change in any information previously given to them within fifteen days after the date on which the change occurs.

Provisions applicable to partnerships of engineers.

9. Notwithstanding the provisions of any other law or any other agreement to the contrary, the following provisions shall apply to a partnership of engineers registered under this Act:

(*a*) the partners shall be jointly and severally responsible for the actions and omissions of each and every one of them in the performance of their professional duties, the maintenance of the required professional standard and conduct and generally in the fulfilment of their obligations under this Act or any other applicable law, and shall also be jointly and severally liable for any loss or damage resulting therefrom;

(*b*) any prohibition imposed by or under this Act in respect of one of the partners shall apply to all the partners and to the partnership even where the act prohibited or restricted, or giving rise to the prohibition or restriction, is done by one of the partners;

(*c*) any act or thing that may be done by a warrant holder may be done by one or more of the partners in the name of the partnership; and any act or thing done in the name of the partnership shall be done by one or more of the partners;

(*d*) the responsibilities and liabilities for anything done or omitted to be done during the period in which a person was a partner in a partnership of engineers shall not cease, in respect of such person, by his retirement, death or other cause by which he ceases to be a partner.

Indemnity insurance by warrant holder and by partnership of engineers.
Amended by: XXIII. 2009.59.

10. (1) Every warrant holder or any person who is granted a special licence under this Act, or any person who exercises the profession of engineer on a temporary and occasional basis or partnership registered under this Act shall be covered by an indemnity insurance against any liability which the warrant holder or any person who is granted a special licence under this Act, or any person who exercises the profession on a temporary and occasional basis or the partnership may incur for compensation in respect of loss or damage to any person as a result of any negligent act, error or omission committed by the warrant holder, or by any person who is granted a special licence under this Act, or any person who exercises the profession on a temporary and occasional

basis, the partnership, any partner thereof or any of the employees in the exercise of their functions, as well as against any claim in respect of any loss or damage brought about or contributed by a criminal or malicious act or omission of any of their employees:

Provided that the provisions of this subarticle shall not apply to warrant holders or to any person who exercises the profession of engineer on a temporary and occasional basis who are, and for as long as they are, employed with the Government in a civil or military capacity in respect of their official duties.

(2) The Board shall only accept any professional liability insurance of any person providing the services of engineering in terms of article 5B(1) if the Board considers that the professional liability insurance subscribed to is equivalent or essentially comparable as regards the purpose and cover it provides in terms of insured risk. The Board shall require supplementary insurance or guarantee in those cases when the professional liability insurance is not adequate to cover all risks.

(3) Every person or partnership of engineers bound to be covered by an indemnity insurance under this article shall, each year and within a week of taking out or renewing such indemnity insurance, inform the Board in writing of the name of the insurance company and the relative number of the insurance policy.

Prohibited agreements. *Amended by: XXIII. 2009.60.*

11. (1) Any agreement or other arrangement purporting to exempt a warrant holder or any person who is granted a special licence under this Act, or any person who exercises the profession of engineer on a temporary and occasional basis or a partnership of engineers from any liability, responsibility or duty under this Act or under any other law, or to relieve them therefrom, or, except under an indemnity insurance as provided under article 10, to indemnify them against any such liability, responsibility or duty shall be null and void.

(2) Any agreement or other arrangement whereby a warrant holder or a person who is granted a special licence under this Act, or any person who exercises the profession of engineer on a temporary and occasional basis, or a partnership of engineers agrees to pay, directly or indirectly, to any person any commission, brokerage fee, share of professional fees, or any other form of reward or remuneration for obtaining or having obtained any professional work shall be null and void.

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12. (1) A conviction by any competent court for any crime liable to imprisonment for a term exceeding one year, other than involuntary homicide or any other crime against the person excusable in terms of the Criminal Code, shall be a cause of perpetual disability to obtain or retain the warrant.

(2) Such disability shall be declared by the Minister by notice published in the Gazette and shall be communicated to the person disqualified, unless he has been interdicted by the sentence itself.

(3) The Minister may, at any time, and if the Board so recommends, by order remove the disability declared by him.

Surrender of warrant, special licence or registration of partnership.

13. (1) A warrant, a special licence or a registration of a partnership of engineers issued, granted or made under the provisions of this Act may be withdrawn or cancelled by the Minister at the request of the warrant holder, licensee or partnership as the case may be.

(2) Notwithstanding the foregoing, a fresh warrant, special licence or registration of a partnership of engineers may be issued, granted or made at any time if the conditions for such issue or registration are satisfied.

Suspension or revocation of warrant, special licence or registration of partnership.

14. The Minister may, by order in writing, suspend, revoke or cancel a warrant, a special licence or registration of a partnership of engineers, if the warrant holder, licensee or any one of the partners, as the case may be -

(*a*) has been found guilty, after an inquiry by the Board, of any of the following acts or omissions:

(i) dishonesty, misconduct or gross negligence in the exercise of his profession;

(ii) conduct discreditable to the profession;

(iii) failure to comply with regulations with respect to professional standards or practices;

(iv) failure to comply with any condition attached to a warrant issued under the provisions of article 16;

or

(*b*) has been found guilty by a competent court of an offence under the provisions of this Act or of any regulations made thereunder; or

(*c*) without prejudice to the provisions of article 12, has been found guilty by a competent court of a crime affecting public trust or of theft or of fraud or of knowingly receiving property obtained by theft or fraud.

Effects of revocation or suspension of warrant, special licence, or registration of partnership.

15. Where a warrant or special licence issued under this Act is withdrawn, suspended or revoked, the person to whom the warrant or licence was issued shall cease to be the holder of such warrant or licence; and upon the cancellation of the registration of a partnership of engineers the members of that partnership shall cease to act in the name and on behalf of the partnership and the partnership shall cease to use the designation "Inġinier" or the corresponding abbreviation "Inġ.".

Minister may issue fresh warrant.

16. The Minister may, after the expiration of one year from the date of the revocation or withdrawal of a warrant or special licence or the cancellation of a partnership of engineers, and if the Board so recommends, issue a fresh warrant or special licence or authorise the registration of a partnership of engineers under the provisions of this Act, subject to such conditions as he may deem necessary.

Remuneration of warrant holders.

17. A warrant holder shall be remunerated for such specific

professional services as may be prescribed, solely by such fees and under such rules as may be prescribed.

Chamber of Professional Engineers.

18. (1) The Minister may, after consulting the Board, recognise an association of warrant holders to be known as the Chamber of Professional Engineers.

(2) Whenever the number of members of that Chamber is not less than two-thirds of the total number of warrant holders the Minister may recognise a code of ethics submitted to him by that Chamber and such code of ethics shall regulate the professional behaviour of warrant holders which is not already prescribed.

(3) The Minister may at any time amend any part of or withdraw his recognition of such code of ethics after giving due notice thereof.

Offences.
Amended by: L.N. 424 of 2007; XXIII. 2009.61.

19. (1) Any person who, for the purpose of obtaining the warrant, special licence or registration of a partnership of engineers under the provisions of this Act, gives any wrong information or otherwise acts in a deceitful or fraudulent manner shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) or to imprisonment not exceeding twelve months or to both such fine and imprisonment.

(2) Any person who, not being the holder of a warrant, assumes or uses the designation "Inġinier" or its abbreviation "Inġ.", or in any manner indicates that he is entitled to exercise the profession of engineer shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding two hundred and thirty-two euro and ninety-four cents (€232.94) and in respect of a second or subsequent offence to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(3) Any person who uses the designation "Inġiniera" in relation to a partnership of engineers knowing that such partnership is not registered in accordance with the provisions of this Act, or in any manner whatsoever knowingly makes use of a name falsely implying the existence of a partnership of engineers registered as aforesaid, shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding four hundred and sixty-five euro and eighty-seven cents (€465.87) and in respect of a second or subsequent offence to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(4) Any person who, not being the holder of a warrant or a special licence or who is otherwise not entitled to practise temporarily in accordance with the provisions of this Act, practises the profession of engineer shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of not less than four hundred and sixty-five euro and eighty-seven cents (€465.87) but not exceeding nine hundred and thirty-one euro and seventy-five cents (€931.75), and in respect of a second or subsequent offence to a fine (multa) of not less than six hundred and ninety-eight euro and eighty-one cents (€698.81) but not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (€1,164.69) or

to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(5) Any person who contravenes the provisions of article 10 shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of not less than four hundred and sixty-five euro and eighty-seven cents (€465.87) but not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (€1,164.69) and in the case of a continuing offence to an additional fine (*multa*) of sixty-nine euro and eighty-eight cents (€69.88) for each day during which the offence continues.

Additional provisions with respect to offences.

20. (1) The provisions of this Act establishing offences and punishments in respect thereof shall not affect the operation of any other law establishing offences and punishments in respect of the same acts or omissions and shall not, in particular, affect the application of any higher punishment under any other law.

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(2) The provisions of the Probation Act shall not apply to this Act.

(3) For the purposes of article 19(2) and (3), the use of any card, letterhead, sign, board, plate, advertisement or other written, printed or engraved device, instrument or document, of the word "Inġinier" or its abbreviation "Inġ." in relation to a name, shall be sufficient evidence of the knowledge of such use by the person in relation to whose name the said word or abbreviation is used, unless such person proves that the use of such word or abbreviation was made without his knowledge and that upon becoming aware of the use he took adequate steps to stop it.

(4) For the purposes of this Act -

(*a*) a person shall not be deemed to practise the profession of engineer if he acts simply as an employee of or, assistant to, a warrant holder or a partnership of engineers, and does not issue any certification of an engineering nature under his name;

(*b*) to the extent that is so prescribed, a person shall not be deemed to exercise the profession of engineer if he is in such employment or holds or acts in such office, or performs only such work, services, acts or functions as may be prescribed.

Regulations.
Amended by: L.N. 424 of 2007.

21. The Minister may, after consulting the Board, make regulations to give better effect to any of the provisions of this Act and generally to regulate the profession of engineering, and, without prejudice to the generality of the foregoing, such regulations may in particular include provisions with respect to -

(*a*) the establishment of engineering standards, procedures and other duties and practices to be followed by warrant holders either generally or in particular fields of activity;

(*b*) the professional conduct of warrant holders and the standards of competency and integrity to be kept by the profession;

(*c*) the issue of guidelines and other advice to engineers;

(*d*) the work which cannot be performed and services which cannot be rendered, whether wholly or in part, except by warrant holders under this Act;

(*e*) the work which cannot be performed and services which cannot be rendered by warrant holders under this Act;

(*f*) the fees that may be charged by warrant holders or by a partnership of engineers for specific services; the authority, if any, by which any dispute concerning such fees may be settled and the procedure to be followed by any such authority;

(*g*) the fees that may be charged for the issue of a warrant or special licence or for the registration of a partnership of engineers or for copies thereof;

(*h*) the procedure to be followed by the Board in connection with its functions under article 7(1)(*b*) and (*c*); and the powers which that Board shall have to carry into effect those functions;

(*i*) the punishments, penalties and other consequences and effects to which a person may become liable or which may take place in the event of any contravention of, or non-compliance with, the provisions of any regulation made under this article; so however that no punishment so imposed shall exceed a fine (*multa*) of two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) or imprisonment for a term of one year, or of both such fine and imprisonment, or, in the case of a continuing offence, a fine (*multa*) of twenty-three euro and twenty-nine cents (€23.29) for each day during which the offence continues, whether or not in addition to the punishments aforesaid;

(*j*) the forms of reports or information which a warrant holder or a partnership of engineers may be required to furnish to the Minister or to the Board;

(*k*) any matter which is required or is authorised by this Act to be prescribed.

Applicability of this Act.

22. This Act shall apply only to the Engineering profession in the fields of Mechanical Engineering and Electrical Engineering:

Provided that the Minister may, from time to time by order, extend the applicability of this Act to other fields of the Engineering profession.