

No. S 5

**ARCHITECTS, PROFESSIONAL ENGINEERS AND
QUANTITY SURVEYORS ORDER, 2011
(S 33/2011)**

**ARCHITECTS, PROFESSIONAL ENGINEERS AND QUANTITY SURVEYORS
(PROFESSIONAL CONDUCT AND ETHICS) RULES, 2018**

ARRANGEMENT OF RULES

Rule

1. Citation
2. Code of professional conduct and ethics

SCHEDULE — CODE OF PROFESSIONAL CONDUCT AND ETHICS

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QUANTITY SURVEYORS ORDER, 2011
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In exercise of the power conferred by section 55(2)(d) of the Architects, Professional Engineers and Quantity Surveyors Order, 2011, the Minister of Development, with the approval of His Majesty the Sultan and Yang Di-Pertuan, hereby makes the following Rules –

Citation

1. These Rules may be cited as the Architects, Professional Engineers and Quantity Surveyors (Professional Conduct and Ethics) Rules, 2018.

Code of professional conduct and ethics

2. (1) Every architect, professional engineer and quantity surveyor shall observe and be guided by –

(a) Parts 1 and 2 of the Code of Professional Conduct and Ethics set out in the Schedule; and

(b) the Board's pronouncements on professional matters and professional conduct and ethics issued from time to time.

(2) Every licensed corporation and licensed partnership shall, when rendering architectural, professional engineering or quantity survey services, as the case may be, in Brunei Darussalam, observe and be guided by –

(a) Part 1 of the Code of Professional Conduct and Ethics set out in the Schedule; and

(b) the Board's pronouncements on professional matters and professional conduct and ethics issued from time to time.

SCHEDULE
(rule 2)

CODE OF PROFESSIONAL CONDUCT AND ETHICS

PART 1

GENERAL PROVISIONS

Interpretation

1. In this Schedule, unless the context otherwise requires —

“architect” means a registered architect, and includes a licensed body corporate and licensed partnership;

“housing developer” means any —

- (a) person;
- (b) group of persons, whether in partnership or otherwise;
- (c) society, whether a co-operative society or otherwise;
- (d) company; or
- (e) limited liability partnership,

who or which engages in or undertakes housing development, but does not include —

- (i) any bank which is in possession of a licence granted under the Banking Order, 2006 (S 45/2006), International Banking Order, 2000 (S 53/2000) and Islamic Banking Act (Chapter 168);
- (ii) any insurer registered under section 9 of the Insurance Order, 2006 (S 48/2006) or section 9 of the Takaful Order, 2008 (S 100/2008),

so long as such bank or insurer only lends or provides money for housing development;

“professional engineer” mean a registered professional engineer, and includes a licensed body corporate and a licensed partnership;

“publicity” means any form of advertisement and includes any advertisement —

(a) printed in any medium for the communication of information;

(b) appearing in, communicated through or retrievable from, any mass medium, electronic or otherwise including but not limited to the internet; or

(c) contained in any medium for communication produced for use, and its derivatives, and “publicise”, “publicised” and “publicising” shall be construed accordingly;

“quantity surveyor” means a registered quantity surveyor, and includes a licensed body corporate and licensed partnership.

Duties and responsibilities to client and employer

2. (1) An architect, a professional engineer or a quantity surveyor shall discharge faithfully his duties and responsibilities to his client or employer.

(2) An architect, a professional engineer or a quantity surveyor shall not give professional advice which does not fully reflect his best professional judgment.

(3) An architect, a professional engineer or a quantity surveyor shall engage, or advise engaging, experts and specialists when in his opinion and judgment such services are in the interest of his client or employer.

(4) Notwithstanding the responsibility to his employer and to his profession, an architect, a professional engineer or a quantity surveyor shall act with prime regard to the public interest.

3. (1) An architect, a professional engineer or a quantity surveyor shall not disclose confidential information concerning the business affairs or technical processes of his client or employer without the consent of the client or employer.

(2) An architect, a professional engineer or a quantity surveyor shall not use information which is obtained confidentially in the course of his assignment for the purposes of making personal profit.

(3) An architect, a professional engineer or a quantity surveyor shall not divulge any confidential findings or studies or actions of an architectural, engineering or quantity surveying board of which he is a member without the consent of the Board.

4. An architect, a professional engineer or a quantity surveyor shall at all times apply the conditions of a contract with entire fairness between his client and the other party to the contract, and in any question arising between his client and the other party to the contract in which he is acting between the parties by reason of his professional expertise, he shall act in an impartial manner.

5. An architect, a professional engineer or a quantity surveyor shall not, without disclosing the fact to his employer in writing, be a director of or have a substantial financial interest in, or be an agent for, any company, firm or person carrying on any business which is or may be involved in the work to which his employment relates.

Remuneration of services

6. (1) Subject to this paragraph, an architect, a professional engineer or a quantity surveyor, in respect of the architectural, engineering or quantity survey services he renders, as the case may be, shall be remunerated solely by fees in respect of those services payable by his client or by a salary payable by his employer, and the architect, professional engineer and quantity surveyor shall be debarred from any other source of remuneration in connection with such services rendered.

(2) An architect, a professional engineer or a quantity surveyor that is a licensed corporation or licensed partnership shall not allow any of his employees, directors of the corporation or members of the partnership to receive remuneration other than by fees in respect of those services payable by his client or by salary payable by the licensed corporation or licensed partnership.

(3) Without prejudice to the generality of sub-paragraph (1), an architect, a professional engineer or a quantity surveyor shall not —

(a) accept any discount, gift, commission or other payment or consideration, in respect of the services he renders, from any source other than his client; or

(b) insert or permit the insertion of any clause in any tender, bill of quantities or other document which provides for payment to be made to him by a contractor in respect of the architectural, engineering or quantity survey services he renders, except with the full knowledge and approval of his client.

(4) Nothing in this paragraph shall prohibit an architect, a professional engineer or a quantity surveyor who —

(a) is a director of a licensed corporation from receiving remuneration for his services as a director;

(b) is a shareholder in a licensed corporation from receiving any dividend on his shares;

(c) is providing both architectural, engineering or quantity survey services and building services in any project from receiving his fees in respect of the building services rendered by him in that project.

Publications of practice

7. (1) An architect, a professional engineer or a quantity surveyor may, subject to this paragraph, publicise his practice or allow his employees or agents to do so.

(2) In publicising his practice, an architect, a professional engineer or a quantity surveyor shall uphold the dignity, standing and reputation of the profession.

(3) No architect, professional engineer and quantity surveyor shall publicise his practice in a manner which —

(a) is likely to diminish public confidence in the profession or otherwise bring the profession into disrepute;

(b) may reasonably be regarded as misleading, deceptive, inaccurate, false or in any way unbecoming the dignity of the profession; or

(c) is determined and pronounced by the Board to be an undesirable manner of publicising the practice of an architect, a professional engineer or a quantity surveyor.

(4) For the purposes of this paragraph, publicity shall be regarded to be misleading, deceptive, inaccurate or false if it —

(a) contains a material misrepresentation;

(b) omits to state a material fact;

(c) contains any information which cannot be verified; or

(d) is likely to create an unjustified expectation about the results that can be achieved.

(5) In publicising his practice, an architect, a professional engineer or a quantity surveyor shall ensure that —

(a) any claim to his expertise or specialisation can be justified;

(b) the publicity does not make any comparison or criticism in relation to the fees charged, or the quality of the architectural, engineering or quantity survey services, as the case may be, rendered by any other architect, professional engineer or quantity survey services;

(c) the publicity does not make any reference to any project in which he had not rendered any architectural, engineering or quantity survey services, as the case may be;

(d) the publicity does not make any direct or indirect mention of any project in which, or of clients for whom, he had rendered architectural, engineering or quantity survey services, as the case may be, where the provision of such information will involve a breach of confidentiality he owes to any client or former client; and

(e) where the publicity makes any direct or indirect mention of any project, he shall state his specific involvement in that project and give due credit to any other architect, professional engineer and quantity surveyor involved in that project.

(6) For the purposes of sub-paragraph (5), the following factors shall be taken into account in justifying any claim to expertise or specialisation –

(a) the academic qualifications of the architect, professional engineer or quantity surveyor;

(b) experience;

(c) resources including personnel and facilities;

(d) capacity; and

(e) such other factors as the Board may determine to be relevant.

(7) It shall be the responsibility of every architect, professional engineer and quantity surveyor to ensure that any publicity relating to his practice complies with this paragraph, whether such publicity is conducted by him or any other person on his behalf.

(8) Where an architect, a professional engineer or a quantity surveyor becomes aware of any impropriety in any publicity relating to his practice, it shall be his responsibility to use his best endeavours to procure the rectification or withdrawal of the publicity and to prevent its recurrence.

(9) The responsibility of an architect, a professional engineer or a quantity surveyor shall not be capable of being delegated to any other person, whether or not that other person is also an architect, a professional engineer or a quantity surveyor.

Soliciting and supplanting of employment

8. (1) An architect, a professional engineer or a quantity surveyor shall not canvass or solicit professional employment or offer to make payment for the introduction of such employment.

(2) An architect, a professional engineer or a quantity surveyor shall not accept any work which involves the giving or receiving of discounts or commissions in consideration for, or as an inducement to, the introduction of clients.

9. (1) An architect, a professional engineer or a quantity surveyor shall not supplant or attempt to supplant another architect, professional engineer or quantity surveyor, as the case may be.

(2) An architect, a professional engineer or a quantity surveyor shall not intervene or attempt to intervene in or in connection with architectural, engineering or quantity survey work of any kind which to his knowledge has already been entrusted to another architect, professional engineer or quantity surveyor.

Conduct towards other professions

10. (1) An architect, a professional engineer and a quantity surveyor shall at all times, with due regard to the interest of his client, act honourably towards other architects, professional engineer or quantity surveyor, as the case may be.

(2) Except as otherwise approved by the Board, an architect, a professional engineer and a quantity surveyor shall not compete with another architect, professional engineer and quantity surveyor by means of a reduction of fees or by any other inducement to any person.

11. If a claim by an architect, a professional engineer or a quantity surveyor for remuneration of his professional services in a project is made on a developer of the project and is not satisfied, another architect, professional engineer or quantity surveyor shall not knowingly and without reasonable grounds, accept or continue with an engagement to provide professional services to the developer of that project.

12. (1) If an architect, a professional engineer and a quantity surveyor on being approached or instructed by or on behalf of any person to act as the architect, professional engineer or quantity surveyor or builder or both in any project, knows, or can ascertain by reasonable inquiry, that another architect, engineer or quantity surveyor is or has been engaged to act as the architect, engineer or quantity surveyor or builder or both in the same project, he shall notify the other architect, engineer or quantity surveyor or the Board before he accepts the engagement or commission.

(2) An architect, a professional engineer or a quantity surveyor shall not accept a commission or engagement to render architectural, engineering or quantity surveying services, as the case may be, for a client while a claim for outstanding fees for such services rendered by another architect, professional engineer or quantity surveyor, as the case may be, previous employed in the same project by the same client, and whose employment has been terminated by that client, remains unsatisfied.

(3) Notwithstanding sub-paragraph (2), an architect, a professional engineer or a quantity surveyor may accept a commission or engagement to render architectural, engineering or quantity survey services in the circumstances specified in sub-paragraph (2) if security for the outstanding fees has been furnished by the client concerned jointly in favour of the other architect, professional engineer or quantity surveyor and the Board.

(4) Any security furnished under sub-paragraph (3) shall be in accordance with such agreement as may be made by the other architect, professional engineer and quantity surveyor and the client concerned or, in the absence of such agreement, on such conditions as may be determined by the Board.

(5) Sub-paragraphs (2), (3), and (4) do not apply to any architect, professional engineer and quantity surveyor in respect of any project in which he is providing both architectural, engineering or quantity surveying services and building services, whether on his own or together with any other person.

Professional integrities or obligations

13. An architect, a professional engineer or a quantity surveyor shall not, while engaging in the practice of architecture, engineering or quantity survey, as the case may be, act in a manner which —

(a) is inconsistent or out of keeping with the fitting and proper discharge of his professional duties;

(b) would raise doubts as to his professional integrity as an architect, professional engineer or quantity surveyor, as the case may be; or

(c) would raise doubts as to whether he will render his architectural, engineering or quantity survey services, as the case may be, in accordance with any written law and with honesty and integrity.

14. (1) An architect, a professional engineer or a quantity surveyor shall —

(a) exercise due restraint in criticising the work of another architect, professional engineer or quantity surveyor; and

(b) not maliciously or recklessly injure or attempt to injure, directly or indirectly, the professional reputation, prospects or business of another architect, professional engineer or quantity surveyor.

(2) An architect, a professional engineer or a quantity surveyor shall refrain from expressing publicly an opinion on an architectural, engineering or quantity survey project unless the architect, professional engineer or quantity surveyor is informed of the facts relating thereto.

(3) Sub-paragraph (2) shall not affect any moral obligation to expose unethical conduct before the proper authorities or preclude a frank but private appraisal of employees or of architect, professional engineer or quantity surveyor being considered for employment.

Conflict of interest

15. (1) An architect, a professional engineer or a quantity surveyor shall not hold, assume or consciously accept a position in which his interest is in conflict with his professional duty to his client without previously informing his client, and he shall advise his client of the possibility of any conflict between his interest and the interest of his client.

(2) Without prejudice to the generality of sub-paragraph (1), an architect, a professional engineer or a quantity surveyor shall act as an architect, professional engineer or quantity surveyor, as the case may be, in respect of a contract to which he is a party without previously informing the other party to such contract of that fact and that he intends to so act.

Contravention of other written law

16. An architect, a professional engineer and a quantity surveyor shall –

(a) exercise diligence to ensure that there is no contravention of or failure to comply with any written law by any person in carrying out any building project or works which he is rendering architectural, engineering or quantity survey services, as the case may be; and

(b) immediately report to the relevant competent authorities of any contravention of or failure to comply with any written by any person in carrying out of any building project or works in relation to which he is rendering architectural, engineering or quantity survey services, as the case may be, when he knows of such contravention or failure.

Limitation of payment or contract etc.

17. An architect, a professional engineer or a quantity surveyor shall not be the medium of any payment made on behalf of his employer unless so requested by his employer and he, in connection with any work in which he is employed, shall not place any contract or order except with the authority of or on behalf of his employer.

Acting as housing developer

18. Notwithstanding any of the provisions in this Schedule, no architect, professional engineer or quantity surveyor shall act as an architect, professional engineer or quantity surveyor in respect of any project in which he is acting as a housing developer.

ARCHITECTS

Tenders, information and drawings

19. (1) An architect shall —

(a) invite tenders for all contracts, including prime costs or provisional sum items, unless his client otherwise directs;

(b) not unreasonably withhold from his client copies of all relevant information and prints of drawings obtained or prepared by him on behalf of that client; and

(c) release to his client copies of all relevant information and prints of all drawings already obtained or prepared by him on behalf of the client when so directed by the Board, or upon payment by the client of such fees and charges as may be agreed between himself and his client or, in the absence of such agreement, such fees and charges as may be determined by the Board.

(2) Sub-paragraph (1)(a) does not apply to an architect in respect of any project in which he is providing both architectural services and building services, whether on his own or together with any other person.

Publication of illustrations or descriptions of work

20. An architect may allow any illustration or description of his work signed by him to be published in the press, except that he shall not solicit directly or indirectly any advertisement from any person for such publication.

21. An architect may publish or consent to the publication of a series of illustrations, either in the form of a circular, brochure or book with or without descriptive letterpress, of his work, except that he shall not solicit directly or indirectly any advertisement from any person for such publication.

Exhibition and display of name

22. (1) An architect may exhibit his name outside his office or on a building which is being constructed, altered or extended, in relation to which he is rendering architectural services, if the exhibit is displayed in an unostentatious manner.

(2) An architect may sign on buildings which have been designed by him provided that the signing is done unostentatiously.

PROFESSIONAL ENGINEERS

Design and construction of engineering work

23. (1) A professional engineer who is engaged in the construction or in the design and construction of engineering work or in the manufacture or in the design and manufacture of articles of commerce, whether on his own account or as a technical adviser or employee or a partner or director of a firm or company so engaged, shall not prepare or submit to a client or customer or prospective client or prospective customer a design for engineering works or articles unless accompanied by an offer on behalf of himself or his firm or company to construct the work or supply the articles, and a proviso that if the design of the professional engineer, the corporation of which he is a director or partnership of which he is a member is accepted, he or the corporation or partnership shall be given the contract for the work or supply of the articles, with such variation (if any) as to design and with such arrangements as to remuneration as may be mutually agreed.

(2) A professional engineer shall not prepare or submit or offer to prepare or submit a design without informing the client or customer or prospective client or prospective customer as to the nature of his connection with the construction or manufacture of the work or articles in question.

(3) Except at the request of the client or customer, a professional engineer shall not offer, directly or indirectly, on behalf of himself or his firm or company, to design, or to design and construct, any engineering work, the design of which to his knowledge has already been entrusted to another professional engineer, who is acting as a consultant, unless with the approval of such professional engineer.

PART 2

1. (1) An architect may —

(a) contribute articles for publication in any publication or journal on any matter of architectural interest;

(b) receive remuneration for any contribution in any seminar or conference or the like by way of written papers or participation other than as a member of the audience; and

(c) receive remuneration for his contribution to the publication of any book or other literature.

(2) An architect may —

(a) participate in any forum; or

(b) be interviewed through the media,

in a manner not otherwise prohibited by the Schedule, where the object of such forum or interview is to promote interest in architecture or in the profession.

(3) An architect shall be at liberty to attend and participate in any function or ceremony which is held in connection with any building project.

(4) Any information released or statement made by an architect in relation to the supply of architectural services by him shall be accurate, truthful and dignified, and shall not be misleading, exaggerated or ostentatious.

2. (1) A professional engineer shall not use the advantage of a salaried position to compete unfairly with other professional engineers.

(2) He shall not accept any professional commission from any person other than his employer to an extent prejudicial to his salaried position or detrimental to establish engineering services or which would result in a conflict of interest.

(3) Unless permitted by his employer any professional commission from a person other than his employer shall be confined to consultation on phases of engineering for which he has special qualifications not inherently available in usual engineering practice, except that he shall not establish an office for the purpose of conducting such outside activities.

(4) He shall not use the influence of a salaried position to direct clients to another professional engineer, licensed corporation or partnership or other engineering firm in which he has a financial interest.

Authorisation of giving permit, licence or approval of any building authority

3. (1) An architect shall not, for the purpose of obtaining any permit, licence or approval of the building authority, sign any drawings, plans or specifications which are not prepared by him or any member of the staff under his supervision, unless he has personally scrutinised and checked those drawings, plans or specifications.

(2) A professional engineer shall not, for the purpose of obtaining any permit, licence or approval of any building authority, sign any plans or calculations which neither he nor any member of his staff under his supervision verified, checked or prepared.

Dated this 11th. day of Jamadilakhir, 1439 Hijriah corresponding to the 27th. day of February, 2018.

DATO SERI PADUKA AWANG HAJI SUHAIMI
BIN HAJI GAFAR
Minister of Development,
Brunei Darussalam.