



Professional Quantity Surveyors' Council 2023



**COMMEMORATIVE
MAGAZINE
10 YEARS
2013 - 2023**



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COMPOSITION OF COUNCIL 2022-2024



From the Left:

Mr. N. H. Rakhal, Mr. K. Ramsurrun, Mr. N. Ramphul, Mr. N. K. Padaruth, Mrs. A. Pillay Nababsing, Mr. P. A. K. Juddoo, Mr. V. Sadeo, Mr. S. Deepchand, Mr. V. Pratap, Mr. K. Rambojun and Mr. A. A. Reekoye.

Current

Mr V. SADEO	Chairperson	
Mr V. PRATAP	Vice Chairperson	
Mr S. DEEPCHAND	Member	
Mr P. A. K. JUDDOO	Member	
Mr K. RAMSURRUN	Member	
Mr A. A. REEKOYE	Member	
Mr N. H RAKHAL	Member	
Mr N. RAMPHUL	Member	
Mr V. RAMTOHUL	Member	
Mrs A. PILLAY-NABABSING	Member	
Mr K. RAMBOJUN	Registrar	<i>(As from Sept 2023)</i>
Mr N. K. PADARUTH	Former Registrar	<i>(Sept 2013 – Sept 2023)</i>

PREVIOUS COUNCIL

Sept 2013 - March 2014 (Transitional Council)

Mr S. Ragoo	Chairperson
Mr S. Sumputh	Vice Chairperson
Mr A. C. D. Dooreemeah	Member
Mr R. V. S. Seetaram	Member
Mrs S. G. Burthun	Member
Mr N. Moorogan	Member
Mr A. Gopaul	Member
Mr N. K. Padaruth (Keshav)	Registrar

April 2014 to July 2016 (First Council)

Mr S. Ragoo	Chairperson
Mr S. Sumputh	Vice Chairperson
Mr A. C. D. Dooreemeah	Member
Mr R. V. S. Seetaram	Member
Mrs S. Gungah-Burthun	Member
Mr A. Rampersand	Member
Mr M. Y. Naggea	Member
Mr S. K. Nuckcheddy	Member
Mrs S. Bahadoor	Member
Mr M. Seetaram	Member
Mr N. K. Padaruth (Keshav)	Registrar

August 2016 to August 2018 (Second Council)

Mr S. Ragoo	Chairperson
Mr S. Deepchand	Vice Chairperson
Mr S. Sumputh	Member
Mr V. Pratap	Member
Mr R. Bhagloo	Member
Mrs B. J. Meenowa	Member
Mr S. M. Coowar	Member
Mr M. Rajcoomarsing	Member
Mr V. Ramtohul	Member

Mr M. Seetaram	Member
Mr A. Rohamally	Member
Mr N. K. Padaruth (Keshav)	Registrar

Sept 2018 to Sept 2020 (Third Council)

Mr S. Deepchand	Chairperson
Mr V. Pratap	Vice Chairperson
Mr R. V. S. Seetaram	Member
Mrs B. J. Meenowa	Member
Mr M. A. Bauhal	Member
Mr V. Sadeo	Member
Mr S. Ramsoondur	Member
Mr D. Dabee	Member
Mr V. Ramtohul	Member
Mr K. A. Putchay	Member
Mr N. K. Padaruth	Registrar

October 2020 to October 2022 (Fourth Council)

Mr S. Deepchand	Chairperson
Mr V. Sadeo	Vice Chairperson
Mrs B. J. Meenowa	Member
Mr K. Rambojun	Member
Mr K. Ramsurrun	Member
Mr A. A. Reekoye	Member
Mrs D. Seechurn	Member
Mr C. Purang	Member
Mr V. Ramtohul	Member
Mr K. A. Putchay	Member
Mr N. K. Padaruth	Registrar

EVERY COMMEMORATIVE EVENT BRINGS ABOUT A FLASHBACK OF THE PAST AND PROMPTS A VISION OF THE FUTURE.

The celebration of the decennial existence of the Professional Quantity Surveyors' Council, a key milestone in the history of the regulation of the Quantity Surveying profession in Mauritius, also brings in its wake the celebration of another key event, specifically the 50th anniversary of start of practice of the profession in our homeland by Mauritian qualified Quantity Surveyors*.

Though the Professional Quantity Surveyors' Council was set up more than 40 years after the start of the practice of the profession locally, it has achieved over a decade of existence, significant growth in terms of the roll of registered Professional Quantity Surveyors. Over the 10 years of its existence, the increase of registered PQS has jumped by almost 80%, without compromising on professional standards which is being carefully safeguarded by dedicated members of the Registration Board, duly mandated by the PQSC in the evaluation of prospective candidates. The increase in the roll of professionals has undoubtedly brought in new blood and new dynamism in the profession supported by successive Councils whose members have relentlessly been dedicating their time and effort to the advancement of the profession.

The Quantity Surveying profession is faced with on-going challenges in the present technological age and, as applicable to all professions, will only grow further by being resilient to these challenges and changes. The Professional Quantity Surveyors' Council has a major role to play in that regard and should instigate systemic changes in the practice of the profession in order to adapt to the rapidly evolving environment.

My thanks goes to the present Council for bringing the profession to the fore through this special commemorative celebration and to all those who have contributed in the publication of this magazine which will undoubtedly be appreciated by our readers.

Santaram Ragoob

Past Chairperson

PQSC (2013 – 2018)

* The first three Mauritian qualified Quantity Surveyors are Messrs **Jean Claude Maingard**, **Vivakanundsing Goburdhun** and **Jugmohun Burtun**.

MESSAGE FROM THE CHAIRPERSON OF THE PROFESSIONAL QUANTITY SURVEYORS' COUNCIL

Dear Readers,

I have the immense pleasure to address this message on the special occasion of the 10th anniversary of the Professional Quantity Surveyors' Council (The PQSC). It is with great pride that I was elected as the Chairperson of the PQSC last year, and, along with the Council members, we form a dedicated team of young and dynamic professionals determined to lead the council towards the future with the best interest of the profession and our members at heart.

I must say the council has gone through a lot of ups and downs during the past 10 years but with the dedication and infinite determination of its members it has faced all challenges heads up and moved ahead. On this note, I take the opportunity to thank the previous Council members led by my predecessors Mr. Raj Ragoo and Mr. Satyen Deepchand as chairperson and our outgoing Registrar Mr. Niraj Keshav Padaruth for all the accomplishments over the past 10 years.

I also wish to thank the registration board for their studious efforts in the registration process enabling potential candidates to cross the most important stage in their career and become a professional quantity surveyor.

Achievements of the Council since 5th year commemoration

I will now highlight on the main achievements of the PQSC during the past 5 years after publication of first magazine:



- The Revamping of the PQSC website for better visibility.
- Various newsletters issued in view of creating awareness about our role and responsibilities as quantity surveyors in the industry.
- Various meetings and explanation sessions were conducted with the Bank of Mauritius and

the Mauritius Bankers Association to explain the roles of quantity surveyors in their risk and fund management exercises to prevent other professionals and non-professionals not mandated by law from being solicited for such services.

- Numerous meetings and interactions with the Ministry of MNICD, CIDB, and other stakeholders on the last amendment to the PQSC act in 2021.
- Special video was circulated to trigger school leaver's interest in the field of quantity surveying.

Main objectives and action plan of the PQSC as per the mandate of the current Council.

The present Council is determined to pursue the fantastic work started by its predecessors. It is much pleasure that I highlight the main objectives and the action plan for the forthcoming future:

- Foster better communication and interaction with the Professional members. In this light, a forum discussion was held with our members in April this year whereby their views, concerns and recommendations were considered for our action plan.
- Raise general awareness about the profession and the contribution of quantity surveyors to the construction industry. A press conference was held last September, and this produced remarkable coverage on the National TV channel, the local press and the private radio stations. The message was loud and clear:
 - *Explaining to the public in general how quantity surveyors can provide an adapted service for small dwellings to better manage their construction cost and contractual issues.*

- *Explaining to public authorities the importance of Quantity Surveyors in the financial and contractual management of their construction projects.*
- *Reminding banks and insurance companies to stop engaging unauthorised personnel by law in carrying out their risk and financial management exercise.*
- *Addressing the decision to open the preparation of bidding documents to other professionals in the sector.*
- *Explaining how facilitating the access of foreign quantity surveyors is providing an advantage to them at the detriment of local quantity surveyors.*

- A Special event to commemorate the 10 years of the setting up of the PQSC and launch this commemorative magazine to mark this event in November this year together with a workshop on the future of the Quantity Surveying Profession with a particular focus on:

- *Moving towards modern way of Quantity Surveying practice – Working on common digital platform: Building Information Modelling (BIM)*
- *The Contractual Conundrum associated with BIM.*
- *Forum discussion with members on current issues and the Council's action plan for the future of our profession.*

- Promote and organise continuous professional development programmes for our members. PQSC has organised a CPD talk in April this year and a workshop is scheduled for November on the 10 years commemoration of the PQSC.

PQSC has also signed a CPD partnership agreement with the ASAQs allowing our members to access, at a concessionary rate, their annual list of webinars based on custom-made CPD programs covering over 60 CPD hours. This will develop and foster close collaboration and cooperation with international partners with a view to realizing common goals and objectives, to best serve the profession of Quantity Surveying collectively and our professional members individually.

- In view of the proposed setting up of the Construction Industry Authority in replacement of the CIDB, the PQSC has submitted its recommendations, and in particular amendments to the PQSC Act.
- Review with the authority the conditions for setting up of licensing for firms of quantity surveyors to be restricted to registered professional quantity surveyors only.

- Review our Codes of Conduct and ethics for a better discipline of the professional members and to reflect the current requirements of the industry.
- Initiate discussions with authorities and local institutions in view of accreditation of courses offered in quantity surveying locally and acceptable to the PQSC. We have planned to set up an education board to be initially responsible for advising on CPD and training programmes; and the promotion and regulation of courses offered locally in quantity surveying.
- Encourage students at secondary levels to embrace the quantity surveying profession as the prospect look very bright.

CONCLUDING NOTES.

The quantity surveying profession has acquired significant recognition in the industry since it has been regulated and the Council has continuously been promoting and raising its profile as well. Stakeholders of the industry also value the services of Professional Quantity Surveyors and their importance in the construction team as an important pillar at par with architects, engineers and other professionals.

The Council is determined to raise the profession to the highest level but relies on the contribution of each of its members to demonstrate the highest level of professionalism in his/her services contributing to the overall excellence of the profession. So, let's boost our profession to that level with our engagement, commitment, perseverance, and professionalism.

Veerprakash Sadeo
Chairperson PQSC

MESSAGE FROM CHAIRPERSON OF THE CONSTRUCTION INDUSTRY DEVELOPMENT COUNCIL



It is with immense pleasure that I am addressing this message to the Professional Quantity Surveyors' Council (PQSC) on the commemoration of its 10th anniversary. The collaboration between the Construction Industry Development Board (CIDB) and PQSC is elemental in furthering the development of the construction industry in Mauritius, and I would therefore like to take this moment to congratulate this esteemed organization on this milestone.

Our colleagues at PQSC are actively contributing towards building the Mauritius of the future. Their participation in projects warrants timely deliveries within the stipulated budget, and as per agreed specifications. They are the guardians of sound

project management, ethical practices, and ensure maximised value for money to clients.

At a time when the construction industry is in a rapid phase of growth, there is a need for all stakeholders to pull together and work towards the common objective of having modern, safe, sustainable and cost-effective infrastructures and buildings. In this respect, PQSC will also be called to innovate and transform itself to face new challenges. The members of PQSC will have to increasingly use ICT tools and adapt to new and emerging construction methods. They will have to up their skills in value management, arbitration, mediation and litigation. The barriers between industry stakeholders will become thinner and thinner, especially with the advent of artificial intelligence and the use of augmented reality & virtual reality (AR/VR).

I am confident that PQSC is already working on its strategic development for the coming decade and will continue to take confident strides towards this new horizon. I also look forward to the great feats that the partnership between our two organisations will achieve.

On behalf of CIDB and in my own name, I congratulate PQSC and all its members on their 10th anniversary and wish them the very best for the future.

Tarkaswar Cowaloosur
Chairperson CIDC



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Abdoolah SOOB RATTEE
CHAIRMAN

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Footpath and kerbs construction



Guardrail and handrail installation



Minor road repair and asphaltting

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CHALLENGES FACING THE QUANTITY SURVEYING PROFESSION IN MAURITIUS



Introduction

The profession of quantity surveying was introduced in Mauritius in the mid-fifties by the British Government with a department at the Ministry of Works until the first British private quantity surveying firm started operation in the early sixties. The inculcation was very fast, and we started having qualified local quantity surveyors in the early seventies and local quantity surveying firms around the mid-eighties coming on the market. As at date there are 117 registered Professional Quantity Surveyors and around 40 local firms in the field.

The profession is regulated by the Professional Quantity Surveyors' Council (The PQSC) since 2013. The main objective of the council is to ensure the highest standard of professionalism of its members in their practice. Professional quantity surveyors have a crucial role in the construction industry as they deal with very important and sensible matters such as project finance, procurement, and contractual aspects of construction projects.

The construction industry is developing at very fast pace and consequently, there is a very high demand for Professional Quantity Surveyors. The construction process is also getting more and more complex with the introduction of highly innovative materials, modern techniques of construction and digitalisation to satisfy the fast-modernising society.

The Professional Quantity Surveyor is therefore required to move with the trend and continuously innovate to give an adapted service as required by the industry.

The quantity surveying profession has tremendous prospects, but it is also facing many challenges. The focus of this article will be to explore the main challenges facing the profession and their impact on its future.

CHALLENGES FACING THE PROFESSION.

Amendment to PQSC Act affecting our core services.

Following the last amendments to the CIDB Act in 2021, consequential amendments were brought to the Acts regulating the professions of Quantity Surveyors, Architects, and Engineers. For the first time fundamental changes were brought to the scope of services of all three regulated professional bodies of the construction industry. The amendment allows all three professionals to undertake the duties of **‘preparation of bidding documents’** which was formerly under the scope of the quantity surveyors only, as per the PQSC Act.

The amendments brought to the respective acts relate to the “preparation of bidding documents” in the ‘field of architecture’ for architects, in the “field of engineering” for engineers and in the “field of quantity surveying” for quantity surveyors. The amendments lack certainty.

It is trite that Professional Quantity Surveyors are specially trained to prepare and administer all contractual aspects of the bidding procedure and compile the documents to ensure all terms and conditions are dealt with adequately for a proper bidding process and execution of the works thereafter. The Professional Quantity Surveyor is also responsible to accurately measure all works pertaining to the project according to approved standards of measurements and producing a bill of quantities sufficiently detailed for accurate pricing

by the bidders and eventually be used for proper financial and contractual management of the project. These specific professional tasks form part of the core competency of the Professional Quantity Surveyor which has been acquired through special training and experience.

It is apt to highlight the comments in the annual report of the Central Procurement Board for the year 2021/22 which states:

“the CPB has been continuously requesting public bodies to prepare bidding documents which are user friendly. In the majority of cases, we have observed that there is lack of professionalism in the preparation of bidding documents.”

Obviously, if the roles and responsibilities of the professionals are not properly defined, it is expected that such issues will persist in future. Hopefully learned clients will value the importance of quantity surveyors and solicit the latter for such professional tasks.

Eased access of foreign quantity surveying firms to local market.

In the same amendment of the CIDB Act 2021, foreign quantity surveying firms have easier access to local market to practise and take a bigger share of the fees as compared to their local counterpart. Formerly foreign firms of quantity surveyors were required to enter into a joint venture agreement with a local counterpart with the latter acting as the lead partner with a minimum share of 51%.

The new amendment limits the share of the local quantity surveying firms to a minimum of 25% in the “collaboration” agreement. This collaboration has made it easier for foreign quantity surveying firms to access the local market and compete with local professionals on an uneven basis.

It has also been observed that some foreign promoters access the local market together with their own consultants and collaborate sparingly with the local consultant on a strict minimum involvement.

The continued application of this form of collaboration seriously undermines the role and participation of the local quantity surveying firms which do not benefit much, be it in terms of financial gain, transfer of special skills, expertise, and knowledge sharing.

Due Consideration has not been given to the specific nature and legal provisions relating to the warranty of building works carried out by the foreign firm.

The law governing warranty for defects and bad workmanship is set out under the local provision which applies equally to contractors, subcontractors and consultants involved in the project. It is clear that after the completion of the project, the foreign firms will be absolved of all responsibilities after having left the country with a major share in the fee arrangement and the local firm will have to solely shoulder all professional liabilities.

Illegal and unfair competitions

Private financial bodies soliciting other professionals for quantity surveying services.

It has been noted that certain financial institutions like banks and insurance companies do sometimes solicit professionals, or even non-professionals who are not mandated by law in their risk and fund management exercise.

These persons/firms produce budget estimates, feasibility reports, cash flow forecast, valuation reports for work done, progress reports of works, replacement cost evaluations, etc, in gross contravention to the PQSC Act wherein it is provided that this falls within the remit of a 'professional quantity surveyor'.

Though these institutions are regulated by the Bank of Mauritius and that the latter is mandated to enforce all relevant construction professional Acts, we still find some institutions blatantly ignoring it. This is causing an unfair and illegal competition in the industry to the detriment of registered Professional Quantity Surveyors.

There is also a serious misunderstanding in the scope of services of valuation surveyors and quantity surveyors in

Mauritius. It is good to note that valuation surveyors are mandated to evaluate commercial value of properties who must collaborate with professional quantity surveyors for the preparation of estimates of the construction/re-constructions cost of properties. The PQSC has always raised awareness amongst the various stakeholders. However, this is being ignored by the valuers who produces the estimates on their own which is found to be acceptable by banks, financial institutions, insurance companies, etc, who fail to grasp the importance of this issue by refusing to involve the right professional for the assignment. We have noted that there is still some overlap, verging on illegality, towards the scope of quantity surveyors.

The PQSC has constantly been addressing the issue with the Bank of Mauritius, and certainly a proper enforcement will stop such malpractice in future enabling professional quantity surveyors to practice as per the scope of services under the law.

Forgone opportunities

Major civil works in public sector not being managed by Quantity Surveyors

As stated earlier the profession really started developing since the early eighties and before

that period certain quantity surveying tasks were undertaken by other professionals of the industry. Today, though the profession is regulated we find this practice still in operation, especially for major infrastructure projects in the public sector. The government is investing massively in national infrastructure projects like roads, highways, bridges, tramways, etc and it is very important to have the projects costs be managed properly and that contractual issues be dealt with in a professional manner.

Quantity surveying has emerged as a full-fledged profession that enables the professional quantity surveyor to handle such projects in a more professional, legal and efficient manner. Certainly, the involvement of a quantity surveyor will result in better management of these projects by providing reliable budgets, managing cost throughout the construction process, and advising on contractual issues to avoid disputes as is the practice in developed countries.

Public authorities not involving Professional Quantity Surveyors is depriving the latter a very important part of the construction market for its services as well as the authorities not reaping value for money on their projects. Certainly, an entry into this field of activity will benefit the authorities for better management and accountability of their expenditures whilst at the same time providing a development of the quantity surveying profession in the future.

Public authorities and parastatal bodies not employing Quantity Surveyors.

It has been noted that not all projects initiated by public authorities are being managed by a professional quantity surveyor. This means other professionals are exercising in the areas of expertise which is reserved for professional quantity surveyors. A proper performance of the contract

will not be expected, especially in terms of financial management resulting in unnecessary cost overruns,

It is noted that in a recent Private Notice Question (PNQ) in the Parliament, information was imparted to the Assembly that a certain project had encountered a major budget overrun. The answer provided was that the authority who initiated the project did not have a professional quantity surveyor or a department of quantity surveying. It is highlighted that the cost overrun was about 39% higher than the budget. This correlates with the statement of the Acting Director of Public Procurement Office in their last annual report 2021/2022 as follows:

“it is to be noted that much time and resources are being devoted to projects which in turn do not materialize because of unrealistic cost estimates”.

It recommended that public and parastatal bodies set up a department of quantity surveying manned by professional quantity surveyors to spearhead their construction projects for better cost control, procurement efficiency and sound contractual management. This will enable a better management and accountability in the use of public funds. There should be a strong signal from the authorities to move towards better cost management and control by employing the right professionals. This will create opportunities for professional quantity surveyors and enable the profession to further develop in this area of expertise.

The same can be said for procurement, cost control and financial management regarding MEP services. It has been noted that the consultant only measures the works on a provisional basis and leaves the contractor to design most of the works with the result that leads to a large disparity in budget against construction costs. The professional quantity surveyor's expertise in the measurement of M&E works would curtail such practices.

Technological shift.

The construction industry is rapidly moving towards new technologies at all levels in the delivery processes. Collaboration in the construction process is becoming more specialized as regards processing and sharing of information. The industry is adopting sophisticated processes, like BIM for instance supplemented by various softwares in that process. This enables architects, engineers, quantity surveyors, and other construction professionals to work on a common digital platform.

The industry is also fast innovating, and the use of artificial intelligence is also making its way. For instance, drone-mounted laser-guided surveying and measuring equipment are being used to survey difficult and rough terrains. Similarly, laser scanners are being used to survey buildings and structures and convert them to high-resolution 3D models. Technology is allowing quantity surveyors to save time substantially in undertaking tasks that do not require specialized experiences, thus, they can devote more time and focus on value-added tasks.

However, to embrace modern methods of carrying out quantity surveying, quantity surveyors will have to adapt, by embracing new technology and invest accordingly to be able to provide an efficient 'state of the art' service to meet the expectations of the highly demanding and sophisticated clients or else perish or be phased out.

CONCLUDING NOTES.

Though there are many challenges facing the profession, there exist tremendous prospects for quantity surveyors. The mindset of people engaging in construction is changing and there is significant recognisance of the role and importance of quantity surveyors. Be it a simple residential construction for owner occupation to large buildings or civil work, the contribution of quantity surveyors stands out especially at a time when cost is of the essence for every project.


The PQSC has always been at the forefront whenever the profession has been at risk. The last series of interventions was in the consequential amendment brought to the PQSC Act in 2021. Although "consultations" were held during a period of complete lockdown during the COVID-19 pandemic, PQSC protested most strongly against certain amendments that were deemed detrimental to the profession. I personally intervened at CIDB Council as a council member on numerous occasions and expressed the views and apprehensions of the PQSC. However, the Act was amended.

Now, in view of the proposed setting up of a new entity to regulate the whole construction industry, i.e the Construction Industry Authority (The CIA) to replace the CIDB and the PQSC has participated in various consultation meetings with other stakeholders of the industry. In the same flow the PQSC has proposed a series of amendments in view to address the concerns with respect to these amendments.

The PQSC has also been actively creating awareness amongst the general public and stakeholders of the construction industry on the role and importance of quantity surveyors by means of press conferences, issuance of regular newsletters, interaction with authorities, sharing of special videos and all means within its capability.

Mr Veerprakash Sadeo

PQS Reg. 046

A close-up photograph of a wooden structure, possibly a staircase or a modern architectural element. A bright light source is positioned within a wooden frame, casting a strong, warm beam of light onto a dark, textured surface below. The wooden planks are light-colored and have a visible grain. The overall composition is geometric and modern.

At the heart of change,
with a heart that doesn't change

No compromise. No shortcuts.
The same principles and values that
initially shaped our heart stand as
beacons as we move into the future,
harnessing the winds of change.



CIRCULAR ECONOMY: IMPORTANCE OF QUANTITY SURVEYORS



Circular Economy (CE) is a concept used worldwide to tackle climate change. The three main characteristics of a CE are the following :

- Designing out waste and pollution;
- Keeping products and materials in use;
- Regenerating natural systems.

The construction industry generates a large amount of waste which in turn contributes to climate change. The construction sector is considered as a key sector in CE strategies. The term 'Circular construction' has, thus, been coined to link CE making an impact on the work of Quantity Surveyors (QS).

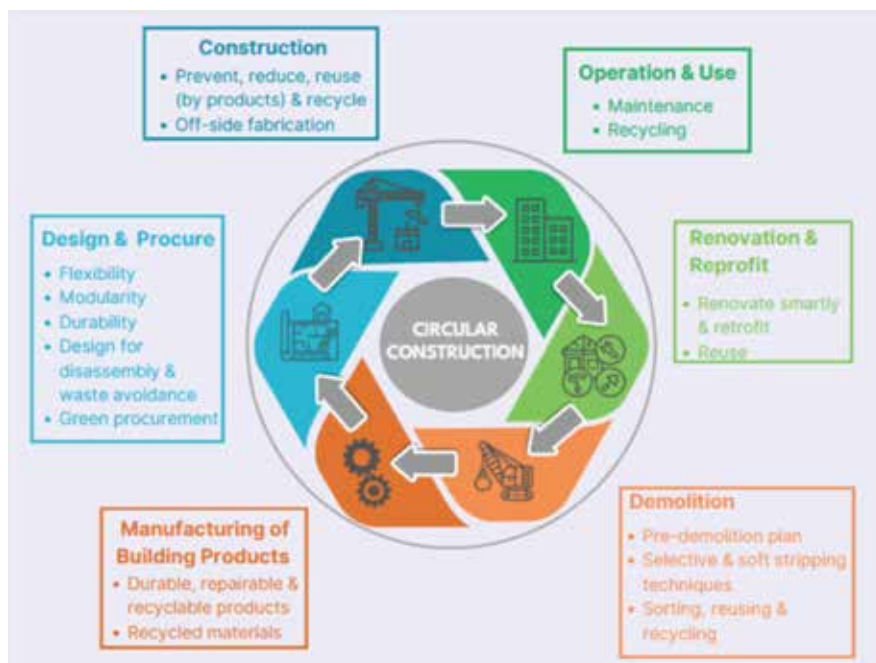
Circular Construction

Circular construction aims at raising awareness about CE within the construction sector which englobes professionals, clients, contractors, and other stakeholders who all have an important role to play in making the sector more circular. The construction industry is shifting towards circular practices through waste reduction, reuse of building materials and adoption of regenerative solutions. In this manner, projects can be implemented using CE principles at all stages, that is, from design, procurement, construction, operations, and end to life. This transition is a way forward to :

- creating a circular flow of resources through reuse and recycling;
- extending the use and recycling phases of the materials through repair, renovation, and remanufacturing;
- reducing the use of natural resources and maximising the efficiency of production processes.

Why Qs are important in CE practices

The involvement of the QS should start at the early design stage to uplift the circular approach. Techniques such as cost planning, cost control, feasibility studies,



Source: Adapted from website of RPS group Ltd (UK)

value engineering, risk management, measurement and quantification, procurement advice, whole-life costing, innovation & technologies, cost modelling, cost analysis etc. are to be applied during the project life cycle (design, construction, procurement, operations and end of life).

Quantity Surveyors can bring their skills and competencies to circular projects in diverse ways, for example:

Optimize budgets to create sustainable solutions in the design

The QS has in-depth knowledge of the preparation and reporting on the estimated costs of construction projects. The QS can transform the budgeted costs so that it can be distributed more optimally and efficiently. This can create avenues for the implementation of green solutions, improved environmental performance systems and incorporation of sustainable products.

Cost plans, whole life costs etc. can be produced with respect to :

- prefabricated concrete frame structure versus steel frame structure in case of new build projects such as office building for easier dismantling and reuse after end of life. Steel is an infinite recyclable, lightweight, flexible, adaptable, and reusable material. The steel structure can be easily dismantled, reconditioned, recycled and reused when compared to a prefabricated concrete structure; it can also be recycled to produce other metal products such as reinforcement bars, tubes, etc.
- refurbishment of existing buildings versus new build: To avoid solid and unrecyclable waste caused by demolition and the reconstruction of new, existing buildings must be considered for reuse and transformed it into new living spaces;
- costs of solid waste management system generated in the infrastructure comprising waste (inert waste, biodegradable, non-biodegradable);

- operations and maintenance costs: use of more sustainable materials and products requires less maintenance;
- costs of sustainable or recycled building materials and products.

Estimate the costs of greener alternatives to assist decision-making

The QS can assess and estimate new solutions in terms of the adoption of green building concepts including improvements to design such as the inclusion of :

- reclaimed materials or products like doors, and windows;
- efficient sanitary fixtures, for example, low flow taps, dual flush cisterns, automatic sensor activated taps or urinals;
- rain water harvesting system;
- materials which are available locally such as organic renewable materials like timber, bamboo, straw, and grass. There are also materials such as clay and stones (which are non-renewable and inorganic) as these can be reused or recycled.

These assessments will be valuable when deciding whether to adopt greener alternatives to the project.

Analyse the life cycle of products

The QS can advise about the cost of more durable alternatives during their analysis and their return on investment. In a bid to enlarge the life of the selected product, the focus should not solely be on its initial capital costs such as renewable technologies, for example, (i) photovoltaic and solar panels, (ii) energy efficient lighting, heating, and air-conditioning.

Support the exploration of circular business models

The QS can contribute to the design of projects which are more affordable and can be built at an economic cost which clients are prepared to invest. Sustainable development is essential but there should be a balance against longer term economic issues whilst considering circular business models.

Circular business models such “Product-As-A-Service” (which maximise value of products or services and prolong their lives) can be introduced whereby a supplier owns the product and manages it throughout its lifecycle, for example, flooring, water pump, lighting, or fit-outs. These products can be recycled for reuse by the supplier.

Use of alternative models of procurement

During the preparation of bid documents, QS can advise on embracing circular procurement models such as :

- “supply, maintain and replace” contracts (for example, window blinds) can be used to reduce initial capital costs. The savings can be transferred into the operational expenditure costs over a longer period;
- the contractor to be responsible for maintenance extending to a long period of 10 years after the defect’s liability period and total cost ownership as price criterion for the 10 years. The contractor or material supplier has responsibility for maintenance for the decennial period following project delivery and/or take back of the materials at end of use, which incentivises the choice of durable, recoverable materials, for example, in the case of a stadium;
- use of at least a minimum percentage of reused and/ or recycled materials, for example, requirements for secondary material content of which the application

may be specified - e.g. recycled aggregates in concrete or asphalt construction.

On the other hand, bidders may be required to specify and submit at tender stage information about how much waste goes to landfill, how much waste product can re-used, how much waste must be handed to the client for re-use.

Forecast of volume of waste for recycling and reuse

The waste generating activities of concrete, steel, timber, aluminium components can be forecasted at the initial design stage and an estimate of the quantities or volume of waste is carried out based on a waste forecast. The forecasted waste quantities can be itemised in the Bill of Quantities for recycling and reuse. Ways to use the waste are to :

- do cross-industry recycling whereby the waste can be a supply source in another industry or project,
- salvaged materials sharing or selling with partnering contractors, suppliers, or manufacturers.

Therefore, CE provides challenges and opportunities for QS to embark in new roles and broaden their scope of services. Adopting circular practices can help boost the QS brand among public, private and societal sectors as well as being key drivers in the CE to combat climate change.

Vikash Pratap
Vice Chairperson, PQSC
PQS, Reg. 008

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 LA PIROGUE HOTEL - REFURBISHMENT
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 PLAZA APARTMENTS & COMMERCIAL - ROSE HILL
 PARKSIDE - SODNAC
 SIT - THE CORE - EBENE
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PROSPECTIVE APTITUDES FOR PROFESSIONAL QUANTITY SURVEYORS



THE DIVERSE SET OF SKILLS THAT PROFESSIONAL QUANTITY SURVEYORS (PQS) POSSESS RENDERS THEM APPEALING TO A NUMBER OF NICHE ROLES WITHIN THE CONSTRUCTION INDUSTRY.

The traditional role of Professional Quantity Surveyor as defined under the PQSC Act 2013 is as follows:

“Professional Quantity Surveyor” means a person registered as such under section 20; “quantity surveying” means the range of services in the construction industry consisting of, inter alia, financial viability analyses, estimates of construction costs, cost planning, cost control, cost management, value management, advice on procurement methods, preparation of bidding documents, bid evaluations, interim valuations, final account settlements, claims formulation and assessment, contractual advice, replacement costs for insurance purposes, mediation, arbitration and adjudication;

Following the consequential amendments carried under the CIDB Act 2021 the PQSC Act was amended:

“Professional Quantity Surveyor” means a person registered as such under section 20; “quantity surveying” means the range of services in the construction industry consisting of, inter alia, financial viability analyses, estimates of construction costs, cost planning, cost control, cost management, value management, advice on procurement methods, preparation of bidding documents in the field of quantity surveying, cash flow forecasting, due diligence and replacement cost assessment, bid evaluations, interim valuations, final account settlements, claims formulation and assessment, contractual advice, replacement costs for insurance purposes;

Whilst many Quantity Surveyors progress through the ranks to senior management within traditional Quantity Surveying roles, a few decide to branch out into other areas of construction and other avenues. PQS can use the skills and experience acquired over their career in undertaking specialist roles. Such career moves may be motivated by higher positions/ higher salaries on offer within specialist roles, a passion or a talent for performing within a specific area of the quantity surveying role, or just curiosity of exploring new career pathways.

The common specialised roles that Quantity Surveyor's transition include, amongst others :

Procurement Specialists

Quantity Surveyors contribute significantly to the procurement process by providing accurate cost estimates, ensuring value for money, managing costs and value engineering, and facilitating effective contract administration. They prepare accurate cost estimates, manage costs, and oversee overall contract administration, contributing to efficient resource allocation and risk mitigation.

Tendering and Bid Evaluation: Quantity surveyors assist in the tendering process by preparing tender documents comprising the agreement and conditions of contract, bills of quantities, drawings and specifications. They work closely with the project team to ensure that the tender documents are comprehensive and accurate. During bid evaluation, they review and analyse submitted bids, comparing them against the project requirements and budgeted cost.

Quantity surveyors also extensively contribute to value engineering exercises during the procurement process. They collaborate with the design team and other stakeholders to identify cost-saving opportunities without compromising the project's quality whilst ensuring timeous completion. Their expertise in cost management helps in optimizing the project's value by reducing unnecessary expenses.

Contract Manager

A Contract Manager is responsible for overseeing the administration and management of contracts between parties involved in a project. They focus on contract negotiation, drafting, and review, ensuring compliance with contract terms, managing contract changes and variations, handling claims and disputes, and maintaining effective communication between parties. Contract Managers ensure that contracts are executed smoothly and that both parties fulfil their obligations.

The exposure of quantity surveyors to contract administration can certainly provide them with valuable insights and skills that can enable them to act as Contract Managers.

Project Manager:

A Project Manager is responsible for the overall planning, coordination, and successful execution of a project. They oversee all project activities, including scope management, scheduling, resource allocation, risk management, quality control, and stakeholders management. Project Managers ensure that projects are delivered on time, within budget, and to the required quality standards.

The Quantity Surveyor's background provides them with the necessary expertise in cost control, contract administration, and financial management, which are crucial for effective contract and project management.

Cost Economist and Cost Consultant

The role of cost economist and cost consultant requires precise monitoring and controlling of costs throughout the project lifecycle. Cost Economist tracks project expenses, prepares cost reports, and provides regular updates to the project team and relevant stakeholders. They help identify cost overruns, analyse the reasons behind them, and propose corrective measures to ensure that the project remains within budget.

Claims Consultant

Claim Consultants are undertaking a more prominent role given the readiness of parties to resort to dispute which is becoming a recurrent feature in the construction industry. This is due to the contractors and employers' resolve to recover costs for delays and other claims they have incurred on the project. Quantity Surveyors have developed skills in claims or disputes related to liability and quantum, and have thus the ability to provide their expertise to assess the validity of claims, analyse the impact on project

costs, and assist in the resolution process. They are often involved in negotiations, mediation, adjudications or arbitration to resolve the disputes.

Expert Witness

Armed with extensive experience, a Professional Quantity Surveyor can act as Expert Witness by providing independent opinion on Construction issues before the Intermediate and Supreme Court or Arbitral tribunal. A Quantity Surveyor is typically required to prepare expert reports that outline his/her opinion, analysis, and findings on matters relating to the dispute. They also called to depone on aspects of their report and to explain their findings before the tribunals. They have to adopt an independent stand and provide impartial view of the matter in dispute in a clear, objective manner, based on their professional qualifications and experience.

Bank Monitoring Specialist

Bank Monitoring is a role in which the QS work directly with the lender to provide advice and support for a planned development.

The role in essence is to undertake an initial appraisal of a proposed development. This comprises a review of the borrower's cost plan and a detailed risk analysis of every aspect of the planned

development to assess the risk to the bank / lender.

Once lending is agreed, this role often progresses throughout the development, as the PQS will be required to carry out regular site inspections, attend progress meetings and valuation meetings whilst providing financial reports to the lender.

The reason that this is considered a Quantity Surveying duty is the inclusion of the preparation of cost estimates, carry out valuation and recommend payments, advice on and prepare contractual documents for the lender and generally advise on the overall progress of the project.

Quantity Surveyors performing this role will often manage a portfolio of developments under which they will assume a managerial role on behalf of the lender.

In my tenure as Chairperson of the PQSC, discussions were held with the Mauritius Bankers Association (MBA) in July 2022 in regards to retaining the services of a PQS for the monitoring and advice in relation to the financing of projects by licensed banks. We demonstrated to the MBA the aptitude of the PQS to handle this role by in-house or private PQS. The expertise of PQS in cost and financial management as well as contract management provide significant value to banks in terms of assessment and management of

the risks associated with financing construction projects.

CONCLUSION

The above highlighted prospects and avenues clearly show that the sky is the limit for Professional Quantity Surveyors.

Having been in the Profession for more than 20 years and having served the council as Chairperson for past 4 years, I would highly encourage the younger generation to consider Quantity Surveying as a professional career as it presents a challenging and rewarding future.

On a separate note, I will highly recommend readers to consult the PQSC website, <http://www.pqsc.mu>, which includes a video providing an overview of the profession of Quantity Surveyors.

To conclude I would like quote Jude Law "Where there is a will, there is a Way"

Satyen Deepchand

(Chairperson PQSC 2018-2022)

PQS. Reg. 038



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THE IMPACT OF COVID-19 ON PROFESSIONAL QUANTITY SURVEYORS



Covid-19! It has been over three years since this global pandemic struck indiscriminately and left an indelible mark on the global landscape, profoundly altering the world as we knew it. The construction industry, which was one of the hardest hit sectors, witnessed the cancellation of major projects by promoters and developers due to the profound unpredictability and uncertainty in the aftermath of the pandemic. Within this landscape, Quantity Surveyors, like most construction professionals, were directly and indirectly hindered and some of the duties of the QS could not be performed as a result of the repercussions of the Covid-19 pandemic. This article briefly analyses the effect of Covid-19 on specific duties reserved to Quantity Surveyors.

Valuation of works for payment purposes

This is one of the fundamental duties of a Quantity Surveyor that was significantly impacted due to the limitations on movement during and after the pandemic. Many Professional Quantity Surveyors agreed that despite the availability of modern technologies, the best industry standards and practices involved in the preparation of payment certificates necessitate physical visits and visual inspections. However, this became extremely challenging during the pandemic-imposed curfews and lockdown. Consequently, payment applications received from contractors could not be processed within the stipulated contractual timeframes. Contractors' cash flow was thus affected. Luckily the impact on the contractor's cash flow was minimal as no significant works were carried out during the pandemic.

Financial Management

Another fundamental attribute of Quantity Surveyors, which was also affected by Covid-19, is the financial management of construction projects. This role hinges on the ability of Quantity Surveyors to analyse and comprehend the prevailing market conditions to generate accurate and dependable cost estimates. When materials and labour costs rise linearly, the process of cost forecasting and estimation remains reliable.

However, the aftermath of Covid-19 was exceptional, with the freight industry rapidly inflating charges by a staggering 500%, which led to an escalation of construction material prices by around 50% within a few months. Covid-19 presented a unique scenario making it exceedingly difficult to ascertain the causes of the surge in material cost. Foreseeing and forecasting cost developments became highly speculative, preventing Quantity Surveyors from delivering reliable and genuine estimates.

Contractual Management

Quantity Surveyors, acting as Contract Administrators on construction projects, grappled with the challenge in the contractual management of the projects. As a consequence of the Government's decree on curfew orders and lockdowns issued under emergency situations, many contractors submitted a claim for extension of time. Most of these claims which included costs, could be categorised as falling under the "Force Majeure" clause or under Compensation events depending on the specific form of the contract, which deals with events that are outside the control of either party. The assessment proved to be challenging not only due to the fact that the curfew orders hindered the ability to carry out site visits and

site meetings which rendered consultations on the review of contemporaneous records which could not be verified nor discussed. It was also very challenging when taking into account the contractual time frame allowed in the respective contracts to assess the extension of time (42 days under FIDIC and 28 days under GCC). Fortunately, the availability of online communication tools helped in providing a means for consultations. We review the situation under the 2 most common forms of contract used in Mauritius:

FIDIC Contract

The Red Book 1999 Edition is one of the most popular forms of contract used in Mauritius for private projects and some public projects. The claims for delays from contractors were mostly based on Force Majeure event, vide. Sub-Clause 19 of the FIDIC Red Book. The difficulty under FIDIC was that despite the fact that Covid-19 met the requirement of paragraphs (a) to (d) of the definition of Force Majeure (Sub-Clause 19.1), the specific absence of "pandemic" in the list of exceptional events proved an obstacle in the outright determination of the claim. Therefore, it was necessary to review the case law in the assessment thereof. The Privy Council case of *General Construction v Chue Wing* [2013] UKPC 30 provided a boon whereby the issue of Force Majeure when considered in the local context concluded that, while French law (Mauritian law is inspired there from) has traditionally required proof of three separate but cumulative elements in relation to force majeure of exteriority (*étranger à la chose*), foreseeability (*imprévisibilité*) and irresistibility (*irrésistibilité*), the correct approach and that which was in accordance with more modern doctrine was to treat irresistibility as the critical element, and unforeseeability simply as a relevant consideration in judging whether an event was or was not irresistible.

General Conditions of Contract (GCC)

The General Conditions of Contract issued by the Procurement Policy Office (PPO) is the most commonly employed form of contract used on public projects. The GCC provides for compensation events at Clause 41.1(l) for Force Majeure but is limited to events in relation to exceptionally bad weather conditions and events associated with strike, lockout or civil commotion affecting the trades employed on or off the site.

In the case of FIDIC, the event of Covid-19 technically falls under the “Force Majeure”, hence providing contractors the possibility to qualify for an extension of time. Conversely, the GCC interpret “Force Majeure” differently, potentially not encompassing Covid-19 within its definition of force majeure events. Consequently, contractors may not be contractually entitled to Extensions of Time under this framework. In both contracts, the issues were not outright and with unclear grounds for the interpretation of clauses related to Extensions of Time with associated costs, it could be argued that employers are not necessarily obligated to pay additional costs except if the claim submitted invoked a “change in law” as provided in the FIDIC form of Contract.

Given the unprecedented nature of the event and in a view to resolving the matter, the Procurement Policy Office issued a circular (no. 5 of 2020) to Public Bodies to consider the situation of the pandemic and lockdown as an event of delay in granting Extensions of Time on a case-by-case basis, whilst on the other hand legal advice received on the matter was on a similar footing. The said circular, which was also adopted by the private sector, provided relief to

contractors from the burden of paying Liquidated Damages for events which were outside their control. In light thereof, the correct interpretation of contractual clauses together with the contractual requirement and the guidance provided by Quantity Surveyors during that time, was of utmost importance to ensure the project’s continuity and uphold the relationship between the employer and contractor.

On a more positive note, despite the numerous challenges posed by Covid-19, it is evident that Quantity Surveyors, as dedicated professionals, have consciously tackled this unforeseen event. These enabled them to acquire new skills and heighten their awareness of international material costs as well as dealing with the rigmarole of force majeure, with the aid of Continuing Professional Development (CPD) courses. Additionally, the disruptions brought about by Covid-19 have encouraged more Quantity Surveyors to embrace modern technology in their daily tasks, enhancing their efficiency in the fulfilment of their duties.

Kushal Rambojun

Registrar

PQS Reg. 080

In collaboration with :

Mrs. B. J. Meenowa

PQS Reg. 006

&

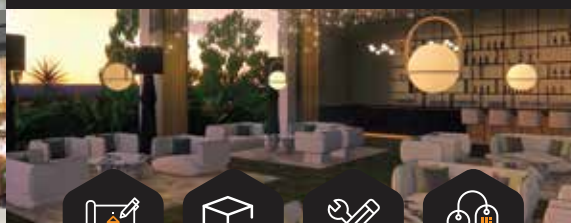
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10 YEARS OF THE QUANTITY SURVEYING PROFESSION IN MAURITIAN LEGISLATION



It gives me immense pleasure to address this message to you on the occasion of the 10th anniversary of the Professional Quantity Surveyors' Council (PQSC) given that I have had the opportunity to serve the Council as Registrar over these past 10 years.

The PQSC Act was voted in Parliament on 7th May 2013 and proclaimed on 16th September of the same year. The setting up of a regulatory body for the QS profession has been quite a difficult task. It all started with the founding members of the MAQS who were the initiating force in the late 90's to regulate the profession of Quantity Surveying (QS). It was followed by numerous brainstorming sessions and

consultations with the Ministry of Public Infrastructure, the State Law Office and all relevant stakeholders over the years.

The Quantity Surveying Profession finally became regulated in 2013 and was then at par with the profession of Engineers which was regulated prior to the Independence of Mauritius (the Registered Professional Engineers Council Act being enacted in 1965) and the profession of Architect which became regulated in 1988. As for the Construction Industry Development Board (CIDB) Act, it was passed in 2008.

The object of the PQSC Act was to provide for the establishment of a Professional Quantity Surveyors' Council. A legislative framework had been rendered necessary by a number of factors, including a large increase in the number of Quantity Surveyors and the growth in the construction industry.

When the transitional Council was constituted in September 2013, we started from scratch. I have been privileged to participate in the setting up of the Council itself and to participate in the legalisation of our profession.

Today the profession of Quantity Surveying is well-regulated with all parameters clearly defined.

However, the continuous advent of new technologies imposes the Quantity Surveyor the need to adjust and update his skills. The PQSC plays an active role in ensuring that the parameters set in the Act are respected. At the start of the registration in 2013, there were 65 Registered Professional Quantity Surveyors. Today this number has reached 117 Registered Professional Quantity Surveyors (as at 1st October 2023) who are authorized to practice in Mauritius, in accordance with the PQSC Act.

It has been a real privilege for me to serve as Registrar of the PQSC and I would like to take this opportunity to thank all the members of the different Councils with whom I have worked and also to all the different Registration Board members and pool of assessors who have been doing a great work behind the scenes. A special thanks go to the past Chairpersons who believed in me and entrusted me with such a responsibility, namely Mr Ragoo and Mr Deepchand and also the current Chairperson Mr Sadeo.

Long live the Quantity Surveying profession....

Niraj Keshav Padaruth

Outgoing Registrar (2013-2023)

PQS Reg. 002

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THE QUANTITY SURVEYOR AS EXPERT WITNESS: THE ROLE AND IMPORTANCE OF EXPERT WITNESSES IN THE MAURITIAN CONSTRUCTION INDUSTRY

Anand Juddoo*¹



Introduction:

The Construction Industry in Mauritius is a dynamic sector that frequently meets with complex disputes and serious legal issues. Disputes are referred to courts or to arbitration under a sole arbitrator or a panel of three (3) arbitrators depending on whether an arbitration clause has been included, or not, in the underlying agreement. Construction disputes are complex and highly technical in nature and are mostly arbitrated, at least in Mauritius, by non-technical persons who have serious difficulties in understanding and interpreting technical terms and issues. In this context, Expert Witnesses play an important role in such situations, providing specialised information, analysis, and professional opinions to aid the judges or arbitrator(s) in making informed and reasoned conclusions. This matter may be a challenge to the arbitrator when both expert witnesses submit opposing views leaving the court or arbitral panel in a conundrum. The purpose of this article is to investigate the role and significance of expert witnesses in the Mauritius construction sector, with particular emphasis on their credentials, responsibilities, and the impact they have on resolving construction disputes. This paper will focus on the role of quantity surveyors in their capacity as Expert Witness.

¹ Anand Juddoo is a Chartered Arbitrator, Chartered & Professional Quantity Surveyor holding a Bachelor's degree and a Masters in Law and a FIDIC Expert. The writer has acted as Quantum and Delay Expert on many occasions.

Understanding Expert Witnesses in Construction Disputes

1.1 Definition and Requirements:

Expert witnesses and their function in Construction disputes.

Expert witnesses are persons with specialised knowledge, abilities, or experience in a specific sector or industry who, retained by either party to a dispute, provide professional opinions or testimony in legal or arbitral proceedings. They are usually 'hired' to assist the court or arbitral panel in understanding sophisticated, technical or scientific issues that are essential to the resolution of the case.

Architects, Engineers, Quantity Surveyors, Accountants, Medical Practitioners, and other specialists in their disciplines are common expert witnesses. They are expected to have substantial experience and skill in their field, which they normally obtain through academic means, training, practical experience, and more importantly professional certifications.

The principal function of an expert witness' is to provide objective and unbiased conclusions based on their knowledge and expertise of the subject matter. In order to submit a professional judgment, they must assess the facts of the case, conduct research, evaluate

evidence and report to the court or arbitral panel. They will, of course, be examined by the tribunals. Experienced Quantity Surveyors provide technical expertise; delay analysis on aspects of evaluation and assessment of extension of time as well as the apportionment of delay, review of valuation for works performed or in the assessment of defects as well as establish the value at termination of a contract arising from a termination of the contract, and also carry out quantum assessment of loss and expense or other earned value assessment, amongst others.

Quantity Surveyors acting as Expert witnesses retained by a party may also assist in drafting the legal strategy, analyse documentation, and aid in understanding technical or construction-specific terms and concepts for the benefit of the counsel, judge, or arbitrators, in addition to delivering expert opinions. The ultimate purpose is to assist decision-makers in understanding difficult issues in a clear and straightforward manner; ultimately assisting in the efficient and expeditious settlement of the dispute.

There are, however, certain caveats. The experts must be resolutely impartial and independent should assess the issues of the case in a neutral and objective manner and must be independent from the parties as well as their legal advisors and the

members of the tribunal. To ensure this, they should disclose any previous or current relationship that they might have. An expert witness is required to deliver their professional opinion based on their best professional judgment, even if it is unfavourable to the party who hired them. They are bound to declare any potential conflicts of interest and ensure that their opinions are supported by facts and not speculations.

In order to achieve and maintain high professional standards, RICS published the 4th edition of its Practice Statement for Surveyors acting as Expert Witness in April 2014, whereby all its members must comply madatorily with and also issued related Guidance Notes which are recommended for good practice.

The Court has, in the past, made damning statements about the requirement of experts to recognise and serve the courts or tribunal and not to their paying clients. The seminal case of *National Justice Compania Naviera SA v Prudential Assurance Co Ltd, 'The Ikarian Reefer'* involving the loss of a ship following a fire, the judge gave a description of the duties of an expert witness, which has been routinely accepted in subsequent cases and which had been included in legislation (the Civil Procedure Rules)² wherein the Judge laid down the duties of an expert witness :

² The Civil Procedure Rules in force in the UK for litigation in court

1. *Expert evidence presented to the Court should be, and should be seen to be, the independent product of the expert uninfluenced as to form or content by the exigencies of litigation (Whitehouse v. Jordan, [1981] 1 W.L.R. 246 at p. 256, per Lord Wilberforce).*
 2. *An expert witness should provide independent assistance to the Court by way of objective unbiased opinion in relation to matters within his expertise (see Polivitte Ltd. v. Commercial Union Assurance Co. Plc.,³ per Mr. Justice Garland and Re J, [1990] F.C.R. 193 per Mr. Justice Cazalet). An expert witness in the High Court should never assume the role of an advocate.*
 3. *An expert witness should state the facts or assumptions upon which his opinion is based. He should not omit to consider material facts which could detract from his concluded opinion.*
 4. *An expert witness should make it clear when a particular question or issue falls outside his expertise.*
 5. *If an expert's opinion is not properly researched because he considers that insufficient data is available, then this must be stated with an indication that the opinion is no more than a provisional one. In cases where an expert witness who has prepared a report could not assert that the report contained the truth, the whole truth and nothing but the truth without some qualification, that qualification should be stated in the report (Derby & Co. Ltd. and Others v. Weldon and Others, The Times, Nov. 9, 1990 per Lord Justice Staughton).*
 6. *If, after exchange of reports, an expert witness changes his view on a material matter having read the other side's expert's report or for any other reason, such change of view should be communicated (through legal representatives) to the other side without delay and when appropriate to the Court.*
 7. *Where expert evidence refers to photographs, plans, calculations, analyses, measurements,*
- survey reports or other similar documents, these must be provided to the opposite party at the same time as the exchange of reports.*
- Judge Toulmin in the case of *Anglo Group plc v Winther Brown & Co Ltd and BML (Office computers) Ltd*⁴ added two further rules that experts should consider:
- *The expert witness should not give evidence or opinions as to what the expert himself would have done in similar circumstances or otherwise seek to usurp the role of the judge.*
 - *[The expert] should cooperate with the expert of the other party or parties in attempting to narrow the technical issues in dispute at the earliest possible stage of the procedure and to eliminate or place in context any peripheral issues. He should cooperate with the other expert(s) in attending without-prejudice meetings as necessary and in seeking to find areas of agreement and to precisely define areas of disagreement*

³ [1987] 1 Lloyd's Rep. 379 at p. 386

⁴ (2000) 72 Con LR 118

to be set out in the joint statement of experts ordered by the court.

The recent judgment in *Beattie Passive Norse Ltd & Anor v Canham Consulting Ltd*⁵ once again highlighted the importance of those putting themselves forward as Expert Witnesses in developing a fundamental understanding of their role and the regulations governing their work. The Judge highlighted 8 key failings of the Expert's performance in that case:

- *Embellishing and exaggerating criticisms*
- *Introducing new concepts or issues in the witness box.*
- *Under cross-examination, relying on material that had no relevance to the issues under consideration in the trial.*
- *Changing his agreement with, and reliance upon, the work of his associate whose work formed an Appendix of his report.*
- *A lack of objectivity.*
- *Constantly seeking to advance the claimants' case at the expense of expert objectivity.*
- *Introducing a concept into his cross-examination*

which was not an issue for the court.

- *Taking a position on a contested issue of fact and did not change or alter his opinion in any respect after the evidence had been given.*

In addition, the Judge found that :

"There is a worrying trend generally which seems to be developing in terms of failures by experts generally in litigation complying with their duties. Practice Direction 35 of the Civil Procedure Rules (UK) makes the position very clear:

- *2.1 Expert evidence should be the independent product of the expert uninfluenced by the pressures of litigation.*
- *2.2 Experts should assist the court by providing objective, unbiased opinions on matters within their expertise, and should not assume the role of an advocate."*

This judgment provides yet another stark reminder of the importance of people putting themselves forward as Expert Witness understanding their

role and the duties to the Court. Comments and feedback such as those made in the above case can dent the reputation of the Expert Witness. Although the Civil Procedure Rules are not strictly applicable in Mauritius courts and arbitral proceedings it certainly has persuasive values.

The duty of experts towards the Court was considered in the case of *Pickett v Balkind*⁶ which involved an expert witness who opened himself up to cross-examination at trial after it emerged in a pre-trial application that he had sent a draft of the joint statement to counsel and had received comments back for consideration and inclusion in the final version. The Judge held that it was entirely appropriate for the expert witness to be cross-examined at trial on those comments. It was appropriate to challenge the expert on the nature of these comments, as well as whether or not he had incorporated them in its report. In reaching his decision, the Judge referred to the case of *BDW Trading Ltd v Integral Geotechnique (Wales) Ltd*⁷, in that case, described it as a 'serious transgression' for an expert witness to provide the instructing lawyers with a draft of the joint statement for their comments. It is apparent that the duty of the expert is to the court and not the

⁵ [2021] EWHC 1116 (TCC)

⁶ [2022] EWHC 2226 (TCC)

⁷ [2018] EWHC 1915 (TCC), [2018] All ER (D)193 (Jul), [para 18]

paying party. The opinion must not be influenced by the lawyers and be seen not to be influenced.

The credentials and competence required for a person to be considered an expert witness.

The particular credentials and expertise required to be considered an expert witness may vary based on the specific case and the conditions imposed by the court or arbitral panel. However, the following general qualifications and competence can help a Quantity Surveyor to be considered as an expert witness in this context:

Education and Professional Qualifications:

A Quantity Surveyor should have a degree or similar qualification in Quantity Surveying or a comparable field. Furthermore, membership in a professional group such as the Royal Institution of Chartered Surveyors (RICS) and be a registered Professional Quantity Surveyor with the Professional Quantity Surveyors' Council (PQSC).

Expertise:

A Quantity Surveyor acting as expert witness should possess extensive practical construction industry expertise, ideally in Mauritius geared to the local legal environment. The expert witness should have experience working on a variety of projects, including those relevant to the disagreement or case at hand. The number of years of experience necessary varies, but a minimum of 10 years of relevant experience is often accepted as sufficient experience.

Construction Contracts Expertise:

A Quantity Surveyor acting as expert witness should be well-versed in construction contracts, especially the standard forms used in Mauritius (e.g., FIDIC, JBCC, PPO's GCC, EAIA, etc.). They should be well-versed in contract administration, interpretation,

and cost and responsibility allocation as well as having a strong knowledge of dispute resolution management.

Knowledge of Construction Costs and estimation:

A Quantity Surveyor acting as expert witness should be knowledgeable about cost estimation, cost control, and construction cost analysis. They should be able to evaluate and comment on the appropriateness and correctness of cost estimates, variances, and claims especially where quantum issues form part of the dispute.

Familiarity with Industry Standards and Practices:

A Quantity Surveyor acting as expert witness must be familiar with industry standards, regulations, and best practices. This includes updating their knowledge on essential codes of practice, construction processes, and developing trends in the Mauritian construction business.

Ability to Write Clear and Concise Reports:

A Quantity Surveyor acting as expert witness should be well-versed in the language of the contract, both written and spoken. The expert witness would be expected and able to write clear, concise, and well-structured reports that present complex technical facts in a way that the court or arbitration panel can understand.

Impartiality and Independence:

A Quantity Surveyor acting as expert witness, like any other expert witness, should be independent and impartial. Regardless of the party who has recruited the Quantity Surveyor, he/she should deliver its views based on their professional judgment and

knowledge. Any potential conflicts of interest should be declared and adequately addressed.

It is crucial to note that the particular requirements for acting as an expert witness may differ based on the type and complexity of the case, as well as the unique rules and regulations of the Mauritius legal system. As a result, it is recommended that Quantity Surveyors interested in becoming expert witnesses check with legal professionals and relevant industry organisations to verify they have the requisite qualifications and standards.

Emphasizing the significance of honesty, credibility, and experience in their respective industries.

Due to the nature of their work and the duties they bear, a Quantity Surveyor acting as an expert witness must show integrity, credibility, and experience. The following are the characteristics in the context of a Quantity Surveyor (QS) acting as an expert witness:

- **Integrity**: A QS's integrity is essential because he/she deals with money, contracts, and confidential information. Clients and stakeholders require QS to conduct themselves ethically, honestly, and in the best interests

of all parties concerned. Maintaining integrity provides trust and confidence in the QS's recommendations and work.

- **Credibility**: A QS must be credible in order to be trusted and appreciated in the industry. It does not happen overnight but is built over time by providing accurate and reliable information, objective guidance, and adhering to professional norms and ethics. Credibility assists QS in gaining the trust of customers, colleagues, and stakeholders, which is necessary for efficient communication, cooperation, and decision-making.
- **Experience**: Experience is an important advantage for a QS because it improves their knowledge, abilities, and expertise in the sector. Experienced QS specialists gain a thorough understanding of construction processes, cost management, contract administration, and industry practices via years of hands-on involvement in a variety of projects and scenarios. This experience helps them to provide clients with informed insights, anticipate issues, and provide effective solutions.
- **Accuracy and Quality**: Clients rely on QS professionals for accurate and dependable

cost estimates, financial analysis, and contractual guidance. A QS who has a track record of producing accurate and high-quality work develops a reputation for professionalism and competence, which fosters trust and confidence among clients and stakeholders. Integrity, trustworthiness, and experience also contribute to a QS's work's accuracy and quality.

- **Risk Management**: In order to mitigate risks in building projects, integrity, credibility, and experience are essential. Financial and contractual risks are efficiently addressed by a QS with high ethical standards and credibility. Their knowledge enables them to detect potential risks, analyse their impact, and devise solutions to reduce or manage them. This protects the interests of clients and stakeholders while also ensuring project success.
- **Professionalism and Reputation**: Integrity, trustworthiness, and experience all play important roles in determining a QS's professionalism and reputation in the business. A QS who possesses these characteristics is more likely to be sought after for their knowledge, to be trusted

by customers, and to be appreciated by colleagues. A solid professional reputation provides doors to new opportunities, collaborations, and advancement in one's career.

In summary, a Quantity Surveyor's honesty, credibility, and experience are critical because they establish confidence, ensure accuracy and quality, mitigate risks, and add to professional reputation. These characteristics are critical in upholding the profession's norms and ethics while providing valuable services to customers and stakeholders.

Does the Expert Witness infringe the provisions of the PQSC Act 2013/ Code of Practice 2016

Professional Quantity Surveyors (PQS) are furthermore required to comply with the PQSC Act 2013, and its revision, in particular, the requirement set out under the Code of Practice for Professional Quantity Surveyors (COP). Sections 2 and 3 of the COP in fact include similar characteristics required of an Expert Witness namely the requirement for integrity, truthfulness, natural justice, conflict of interests, and maintaining a high standard. However, there is a debate about whether the PQS transgresses the requirement of the COP when approached to act as an

Expert Witness, in particular, the requirement set out under Section 5(a) thereof. This section reads as follows :

“On being approached or instructed to proceed with quantity surveying work in respect of which he has reason to believe that the services of another professional quantity surveyor have already been retained by the same person, notify such other professional quantity surveyor”.

This provision was included to prevent 'QS shopping' by clients during the course of an ongoing project. The interpretation of the above should not leave any doubt as to its applicability. The key words are "quantity surveying work", which begs the question as whether an expert retained for a construction dispute carries out quantity surveying work. It is the opinion of the writer that the expert witness approached is not seen to be carrying out quantity surveying work by carrying out an analysis of work rendered by the previous quantity surveyor on a specific project. The quantity surveyor retained as expert witness in a dispute case will definitely be considering and analysing the issues which arose from the measurement of the works and valuation, the assessment of extension of time or

the interpretation of the contract on claims performed by the previous quantity surveyor. This cannot be classified as carrying out quantity surveying work but instead deals with issues that require his/her expertise on the matters put before him/her. If the reverse was true, then no quantity surveyor would be able to undertake expert witness work and would thus create a vacuum for the resolution of complex and highly technical construction disputes.

CONCLUSION

Quantity Surveyors acting as Expert witness, therefore, play a vital role in the construction industry in Mauritius, offering specialised knowledge and objective analysis and report to resolve complex disputes. Their qualifications, responsibilities, and impact on the decision-making process are essential in ensuring fair and just outcomes in construction litigation or arbitration.

Prem Anand Kumarsingh Juddoo

PQS Reg. 059



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THE GROWING NEED FOR PROFESSIONAL QUANTITY SURVEYORS IN MAURITIUS



Mauritian Construction Industry has witnessed a significant growth rate and expansion during the last quarter of the year 2023. As published by the issue of Economic and Social Indicators on Quarterly National Accounts (QNA), the contribution to the Gross Domestic Product (GDP) of the Construction Sector has increased by 14.2% following that of 4.7% observed in the previous quarter. This industry which comprises various professionals who are involved directly and indirectly in construction are indeed contributing significantly in the recovery of the economy following contractions recorded between the first quarter of 2020 to the first quarter

of 2021 as a result of the COVID-19 pandemic. In this respect, could the Quantity Surveying Profession be more than ever becoming indispensable?

The Quantity Surveying practice can be considered as both a science and an art which consists of professionals engaged in the costing of construction projects at all the stages from inception to completion and end of life while ensuring the related legal aspects and quality standards are met. These are achieved mainly through proficiency in providing expert advice and role in cost planning, procurement and tendering, contract administration and life cycle costing among others.

In the aftermath of the COVID-19 pandemic, marked changes were recorded in various aspects in the way of doing business and in terms of adaptability. Identified as one of the industries to help in the upturn of the economic difficulty of Mauritius and to stimulate economic recovery, the construction sector has not been left apart from the effect of these changes. Whilst having the capacity to make efficient allocation of resources and managing costs, the call for Professional Quantity Surveyors is making itself more noticeable in the following ways:

Disruptions caused in the supply chain

Circled by the sea and located well away from major markets, Mauritius is primarily dependent on the importation of materials related to the construction industry and as a result, the consequential effect of such disruptions has been felt through the significant fluctuations in material costs. Certainly, the advantage of having the special ability to manage

uncertainty and help in looking for alternatives to meet budgets can be taken by clients,

Optimised cost control

In order to meet up with growing cost-concerned business, the QS who is seen as the financial guardian of any construction project possesses the core competency to carry out cost control on construction projects,

Increased project complexity

In order to adapt to the changing requirements of construction projects to enhance value for money concept while focusing more on the health and safety factors, it is highly required that resources are used efficiently.

In the same vein, from the construction of small dwellings to large and complex construction, Quantity Surveyors can therefore be considered as game changers in the growth of the GDP of Mauritius by being more involved in other related avenues. For instance, expert skills can be optimised by not being limited to the construction sector but by forming part of other sectors like; banking, by assisting them to make informed decisions with regards to construction, risk assessments and mitigation, monitoring of loans and foreclosure and asset

management; real estate by helping investors in assessing the costs and potential returns on investments and insurance and claims for constructions.

Additionally, the increasing demand for more PQS can arise from the evolving nature of the legal and regulatory compliances, major infrastructure works, the ageing workforce of the country, the growing concern for more sustainable developments to meet up with green initiatives, to cope with international markets whereby construction and economies are being sought to meet up with international norms and standards.

The number of Professional Quantity Surveyors has experienced a gradual increase in numbers since the existence of the PQSC. However, in view of addressing the increasing demand for a challenging economy, it is important that much determined efforts are expressed by PQS firstly to encourage those degree holders in Quantity Surveying who are already assets for the industry to be registered and secondly promote the profession among school leavers by unveiling its importance and associated prospects.

Alongside the wish to increase the numbers, there should be no compromise in the quality of the PQS which can be addressed

through high ethical standards, regular and consistent updating of knowledge through CPDs, upgrading skills by exploring new tools and related disciplines to help in their daily professional life, adapting to varying working environments ranging from remoteness to more collaborative, allowing for good risk management skills, enhancing communication skills and more versatile with digitalisation.

The PQS is therefore of vital importance in the progress of the country and can contribute enormously to various sectors of the economy. Yet, well-deserved recognition is required among other already established professions that have a tendency of stepping in the shoes of the PQS, for reasons mainly related to a shortage.

Kavin Ramsurrun

PQS Reg. 092



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AN OVERVIEW OF THE MAURITIAN PROFESSIONAL QUANTITY SURVEYORS' COUNCIL ACT AND OF ITS ETHICAL STANDARDS

Introduction & Background

The construction sector in Mauritius has witnessed remarkable growth in the past decade, or so, and with this expansion, the need for an appropriate legal framework was felt for all branches of this industry. The purpose of this article is to provide the reader with a broad overview of the legislative framework governing the profession of Quantity Surveying.

The PQSC Act came into force on 16 September 2013, thus providing the profession with legal recognition. It has as its primary objectives the establishment of a Professional Quantity Surveyors' Council (PQSC) and better regulation of the profession of quantity surveyors. Celebrating this year its 10 years of coming into existence, the PQSC serves as the regulatory body responsible for the quantity surveying profession in the country and strives to uphold the highest professional standards within the profession.

The profession of Professional Quantity Surveyor (PQS), although a major component of the construction industry, remains less known to the nonprofessional, compared to its peers; (i) the **Professional Architect** who had gained legal recognition as far back as 1988, and subsequently in



2012 when the old law was replaced by the present Professional Architects' Council (PAC) Act; (ii) the **Professional Engineer** through the Registered Professional Engineers Council Act which came into force in 1965 superseding the PAC Act and (iii) the **Contractors and Consultants** falling under the purview of the 2008 Construction Industry Development Board Act (CIDB Act)¹.

¹ This Act also provides for the setting up of the Construction Industry Development Board exercising inter alia regulatory functions in respect of the construction industry, including the registration of consultants and contractors.

Quantity Surveying (QS)

A definition is provided under the law to assist the general public but also other key components of the industry to understand what are the main services provided by a Professional Quantity Surveyor (PQS).

S19 - “No person shall practise quantity surveying in Mauritius unless he is a professional quantity surveyor”

The PQSC Act defines quantity surveying as *“the range of services in the construction industry consisting of, inter alia, financial viability analyses, estimates of construction costs, cost planning, cost control, cost management, value management, advice on procurement methods, preparation of bidding documents in the field of quantity surveying, bid evaluations, interim valuations, final account settlements, claims formulation and assessment, contractual advice, replacement costs for insurance purposes, cash flow forecasting, due diligence and replacement cost assessment respectively.”*²

Practice of QS

The Act imposes that all Professional Quantity Surveyors practising in Mauritius must be registered with the PQSC. This registration process ensures that Professional Quantity Surveyors meet the necessary qualifications and standards to practice their profession. The educational qualifications and practical experience requirements that aspiring quantity surveyors must meet to be successfully registered as professionals are detailed under section 20 of the PQSC Act.

Raising awareness and promoting the profession

The PQSC Act empowers the PQSC to advocate for the quantity surveying profession in Mauritius. It acts as a voice for the profession, raising awareness and promoting its vital importance within the construction industry in Mauritius.

Collaboration and Exchange

The PQSC Act encourages collaboration between the PQSC and other relevant professional bodies in the construction sector. This cooperation helps in the exchange of knowledge and expertise to benefit the industry as a whole.

Continuous Professional Development (CPD)

The PQSC Act also provides for the PQSC to *“approve, organise or cause to be organised Continuous Professional Development programmes or any other programmes, courses, lectures, seminars or conferences for the purposes of updating professional knowledge and skills in the field of quantity surveying”*. These programmes include courses, lectures, seminars or conferences in relation to new construction techniques, materials and methods of management, changes in construction law, building regulations and building standards, or any other matter related to the profession of quantity surveyors.

Dealing with complaints against PQSs

The PQSC is empowered, through the conduct of a **preliminary investigation**³, to inquire into complaints against PQSs who have allegedly breached the provisions of the Act or of the Code of Practice and specifically any complaints pertaining to professional misconduct, malpractice or negligence.

² Amendments were brought to this definition following the coming into force of the Construction Industry Development Board (Amendment) Act 2021

³ Section 26 of the PQSC Act

In the event that such a complaint is being investigated, the PQSC must notify the PQS of the nature of the complaint against him. The Council has the power to summon and hear the PQS who may be assisted by a legal representative of his choice; to summon and hear witnesses and to call for the communication or production of any relevant record, document or article.

Where, after an investigation, the Council considers it necessary to initiate **disciplinary proceedings**, it may press charges against the PQS, forward to the PQS a statement of those charges, calling upon the professional to *“to state in writing, before such date as the Council may specify, any grounds on which he relies to exculpate himself.”* In the event that no reply is received within the specified period or that the PQS fails to exculpate himself, the PQSC may then institute disciplinary proceedings against the PQS before a Professional Conduct Committee.

The **Professional Conduct Committee** is set up by the PQSC and consists of a President, who is or has been a Judge or Magistrate, or is a barrister of not less than 10 years’ standing; and 2 assessors, who are professional quantity surveyors with not less than 12 years’ experience and who are not members.

A Professional Conduct Committee shall, after having heard any disciplinary proceedings, send a report to the PQSC, including its findings as to whether the charge has been proved or not, its reasoning, and other relevant details. It is to be noted however that the Professional Conduct Committee does not make any recommendation regarding the form of disciplinary measure. Where the charge has been proved, the PQSC retains its power to consider (i) administering a **reprimand or a severe reprimand**; (ii) **suspending** the PQS for a period not exceeding 2 years; or (iii) **deregistering** the PQS.

In addition to the above, the PQSC is empowered under section 32 to avail itself of summary proceedings once it is satisfied, after carrying out its investigation, that the PQS has indeed committed *“an act or omission which, in its opinion, is not considered to be of a serious nature”*, it may inflict upon him a warning or severe warning.

These disciplinary procedures not only safeguard the interests of clients, developers, and the public but also maintain the reputation of the quantity surveying profession in Mauritius. By holding registered quantity surveyors accountable for their actions, the PQSC ensures that only those who maintain the highest ethical and professional standards are allowed to practice. This, in turn, fosters a sense of trust and confidence in the profession, both among clients and within the industry.

Offences & Penalty

Section 43 of the PQSC Act provides that the following acts shall constitute an offence:

A person who not being registered, or being suspended or deregistered, as a professional quantity surveyor –

- practises quantity surveying;
- takes or uses the name, description or title “Professional Quantity Surveyor”, “Chartered Quantity Surveyor”, “Authorised Quantity Surveyor”, “Authorised Foreign Quantity Surveyor”, “Consulting Quantity Surveyor”, “Qualified Quantity Surveyor” or “Quantity Surveyor”, or any abbreviation thereof in whatever language, either alone or in connection with any other title, name, word or letter;
- holds himself out or conducts himself as a professional quantity surveyor;

- by any wilful act or omission, causes or induces any person to believe that he is a professional quantity surveyor; or
- demands, sues for or recovers in any Court any charge by way of claim, counter-claim or otherwise in relation to any quantity surveying services he claims to have provided as a professional quantity surveyor; or
- fraudulently procures or attempts to procure his registration as a professional quantity surveyor.

shall be liable, on conviction to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

Any person who –

- wilfully fails to attend a Professional Conduct Committee after having been summoned;
 - refuses to take an oath or make a solemn affirmation or declaration, as the case may be, before a Professional Conduct Committee;
 - refuses without reasonable excuse to produce any record, document or article before the Professional Conduct Committee;
 - gives false evidence or evidence which he knows to be misleading before a Professional Conduct Committee;
 - obstructs the proceedings of a meeting of the Council or a Professional Conduct Committee;
 - molests any member of the Council or a Professional Conduct Committee in the course of, or on account of, any investigation or proceedings under this Act; or
 - in any other manner contravenes this Act,
- shall be liable upon conviction, to fine**

not exceeding 50,000 rupees and to imprisonment for a term not exceeding 12 months.

Code of Practice

The professions of quantity surveyor and barrister in Mauritius share a common thread inasmuch as they seek to uphold the highest legal and ethical standards. Both professions require a strong commitment to ethics, integrity, and professionalism. Quantity surveyors and lawyers are entrusted by their clients with sensitive information and responsibilities related to contracts, negotiations, and the legal aspects of construction projects. They have a duty to act in the best interests of their clients, ensuring transparency and above all to adhere to the law.

The PQSC Act establishes a comprehensive code of practice for PQSs which includes guidelines on professional ethics, integrity, and responsibility, promoting transparency and accountability in their dealings, but contrary to perception, these are not mere guidelines but have the force of law being set in the **Professional Quantity Surveyors' (Code of Practice) Regulations 2016**.

The Code of Practice provides that a Professional Quantity Surveyor shall *“not conduct himself in a manner which is derogatory to his professional integrity, likely to lessen the confidence of the public in the Council or the profession or to bring him into disrepute”*.

It emphasises the importance of honesty and transparency in all professional dealings. Quantity surveyors are expected to provide accurate and truthful information to their clients and stakeholders. This commitment to honesty ensures that clients can make informed decisions and trust the advice and recommendations of their PQS.

Moreover, PQSs must maintain the highest level of confidentiality, ensuring that the information imparted to them by their clients is not disclosed to unauthorised parties. This ethical standard is essential to protect the privacy and interests of clients.

A PQS must at all times, whilst engaged in a professional capacity, adhere to and observe a standard of behaviour befitting a Professional Quantity Surveyor

The 2016 Regulations encourage PQSs to avoid conflicts of interest. Quantity surveyors should act in the best interests of their clients and avoid situations where personal or financial interests could compromise their professional judgment.

Every Professional Quantity Surveyor shall inter alia “maintain a high standard of integrity; ...act in good faith and be truthful;... adhere to the principles of natural justice; ...avoid situations in which his private interests conflict, or might reasonably be perceived to conflict, with the impartial fulfilment of his official duties

It is only by upholding the strictest ethical principles as outlined in the Code of Practice, that the PQSs in Mauritius will ensure the trust of their clients and contribute to the overall integrity and professionalism of the profession.

CONCLUSION

The Professional Quantity Surveyors' Council Act in Mauritius serves as a fundamental legal framework for the quantity surveying profession. By establishing the PQSC and laying out the legal provisions mentioned above, the Act contributes to the growth and regulation of the industry, ensuring that quantity surveyors in Mauritius maintain high standards of professionalism, ethics, and competence. This not only benefits the professionals themselves but also the clients, developers, and the public who rely on their services for efficient and cost-effective construction projects.

A. Pillay Nababsing

Ag Legal Secretary (Barister)

Council Member



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WHY THE PREPARATION OF BIDDING DOCUMENTS SHOULD BE UNDER THE SCOPE OF QUANTITY SURVEYORS



Introduction

In the world of construction and infrastructure development, Quantity Surveyors play an indispensable role in the entire project lifecycle. Among their many responsibilities, the preparation of bidding documents can be considered a critical task. Bidding documents are the foundation upon which the success of construction projects is measured. This article delves into the reasons why Quantity Surveyors should be actively involved in the preparation of these documents, highlighting their expertise in cost management, risk mitigation, and ensuring project success.

Importance of Quantity Surveyors in Preparation of Bidding Documents

One of the primary responsibilities of Quantity Surveyors is Cost Management. They possess the expertise to precisely estimate project costs, taking into account material prices, labour, equipment, and overhead expenses. Quantity Surveyors can ensure that cost estimates are as accurate as possible through the preparation of a firm and detailed Bill

of Quantities where most elements included in the construction are measured and described. This accuracy is essential for both contractors and clients, as it helps avoid cost overruns and disputes during the construction phase.

Construction projects are inherently risky, and many unforeseen challenges can arise during execution. Quantity Surveyors are well-equipped to identify and assess potential risks. During the preparation of bidding documents, they can include detailed risk assessments and contingency plans. This proactive approach minimizes the likelihood of costly surprises during construction, ensuring that contractors and clients are better prepared to handle unforeseen challenges.

Quantity Surveyors are responsible for advising on the choice of the type of contract to be included in the bidding document. They ensure that the contract aligns with the project's objectives, financial constraints and risk allocation. The choice of the form of contract will impact the payment terms and project timeline among others.

Bidding documents serve as a set of standardised guidelines for contractors to follow when submitting their bid. Quantity Surveyors have a keen eye for detail and are experts in ensuring that these documents are consistent, clear, and complete. This standardisation helps in evaluating contractors' bids more effectively and reduces the potential for discrepancies or misunderstandings, which can otherwise lead to disputes and delays.

The construction industry is subject to a multitude of regulations, codes, and standards. Quantity Surveyors are well-versed in these requirements and can ensure that bidding documents are in full compliance. This not only avoids legal issues but also fosters a culture of uniformity, safety, quality, and environmental responsibility throughout the construction process.

One of the major challenges in construction is the clear definition of project scope. Ambiguities in the bidding documents can lead to disputes and extra costs down the line. Quantity Surveyors are well-equipped to ensure that the scope of work is well-defined and unambiguous. Their adherence to high professional ethics and standards helps prevent misunderstandings between the client and the contractor and hence promotes trust and confidence between parties to a contract.

Effective communication is the cornerstone of any successful project. Quantity Surveyors possess excellent communication skills and can convey complex project details in a clear and understandable manner. Their involvement in bidding document preparation ensures that all stakeholders, including contractors, understand the project requirements, reducing the likelihood of misunderstandings or disputes.

Value engineering is a systematic approach to improving the value of a project by optimizing cost and performance. Quantity Surveyors are uniquely positioned to identify value engineering opportunities. By integrating this concept into the bidding documents, they can help clients and contractors explore cost-effective alternatives without compromising quality or functionality.

Ultimately, the involvement of Quantity Surveyors in preparing bidding documents contributes to the overall success of construction projects. Their expertise in cost management, risk mitigation, compliance, and effective communication ensures

that the project gets off to a strong start and thus results in an on-time, on-budget project delivery, which benefits all stakeholders involved.

CONCLUSION

Quantity Surveyors play an indispensable role in the construction industry, and their involvement in the preparation of bidding documents is most valuable. By ensuring cost accuracy, mitigating risks, ensuring compliance, fostering efficient communication, promoting trust and above all adhering to high professional ethics and standards, they contribute significantly to overall project success. Their expertise is an asset that should not be overlooked when embarking on construction ventures, as it can make the difference between a smoothly executed project and one fraught with challenges and disputes. Therefore, the role of Quantity Surveyors in the preparation of bidding documentation is essential for the construction industry's advancement and excellence.

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THE IMPORTANCE OF CPD FOR PROFESSIONAL QUANTITY SURVEYORS



Introduction

Continuous Professional Development (CPD) has been defined by the Royal Institution of Chartered Surveyors (RICS) as *“the systematic maintenance, improvement and broadening of knowledge and skills*

and the development of personal qualities necessary for the execution of professional and technical duties throughout the practitioner’s working life.” Thus, CPD ensures that a professional continues to be proficient and competent and also provides essential skills which enable the latter to progress in his/her career.

The concept of CPD can be roughly traced to the years following World War II when different institutions began to identify the need for additional learning after formal academic qualification. With a changing working environment, advances in technologies and an increased risk of litigation, the need for a more organized approach to post-qualification learning became increasingly important.

Types of CPD

CPD can be classified into 3 main types namely structured, reflective and informal.

Structured CPD

Structured CPD refers to all formal modes of learning through activities comprising inter-alia conferences, workshops, structured reading, studying for a qualification and lecturing. These activities usually have a clear learning outcome and are easily quantifiable.

Reflective CPD

Reflective CPD is all forms of passive learning inclusive of watching videos, attending non-interactive lectures, reading specialised articles and case studies

among others. Learning is in a more one-directional way and is flexible according to the person's needs.

Informal learning

All unaccompanied and unstructured learning such as forum discussions, reading books, articles, publications and industry-related newsletters etc. can be considered informal learning. For these activities, the timeframe and learning outcomes will vary for each individual.

Importance of CPD

In a constantly changing world and evolving working environment, staying in the game is crucial. Thus, it is important to be aware of new technologies, updates in software and results of recent research to avoid having a set of skills which is no longer in line with the industry's demands.

The effectiveness with which one delivers at work usually helps to further career goals and achieve more decision-taking roles. By improving the skills one already possesses, the employee or professional may undertake tasks more effectively and bring added value to the service being offered.

The additional skills obtained through CPD help professionals to stand out from others when it comes to promotions. It also enables one to be in a better position to provide an enhanced service to Clients thanks to the additional knowledge gained.

Professionals may also find a renewed interest in their profession and provide their service in a more efficient way by keeping in touch and learning new skills.

CPD requirements for international Quantity Surveying institutions or associations

The RICS requires each of its members to undertake a minimum of 20 hours of CPD annually, 10 of which must be in a formal mode. Additionally, all members have to keep updated with the Global Professional and Ethical Standard at least once every 3 years. Members are required to log in their CPD activity through the RICS CPD Management Portal. Failure to meet the minimum requirements from RICS may entail penalties ranging from a simple caution to expulsion from the institution depending on the gravity of the offence.

The Australian Institute of Quantity Surveyors (AIQS) has a similar system to the RICS except that the CPD activity is cumulated in terms of points. Members are required to log in their CPD activities (15 to 20 points depending on the different categories of professionals) on the institute's portal. Members not conforming to the requirements of the AIQS may face penalties ranging from reprimand to termination of membership.

The South African Council for Quantity Surveyors (SACQSP) introduced a system of CPD for its members since 1999. In its mission to achieve that objective, the council has delegated some of its powers to the Association of South Africa Quantity Surveyors (ASAQS) in terms of validation of the different courses offered, presentation of the courses, workshops or seminars and issuing attendance certificates. Members are then required to record their activity with the SACQSP to ensure they meet the minimum requirement of 200 points over a period of 5 years with a minimum of 25 points every year.

The Mauritian context

In Mauritius, recording CPD is not a mandatory requirement by the Professional Quantity Surveyors Council (PQSC). However, under Section 5(g) of the PQSC Act 2013, one of the functions of the Council is to *“approve, organize or cause to be organized Continuous Professional Development programmes or any other programmes, courses, lectures, seminars or conferences for the purpose of updating professional knowledge and skills in the field of quantity surveying.”* As such, the PQSC has organized several CPD-related activities since its inception in 2013. Similarly, the Mauritius Association of Quantity Surveyors (MAQS) has been regularly organising CPD activities for its members and other construction professionals during its almost 25 years of existence.

CONCLUSION

CPD primarily helps individuals, firms and the whole industry to maintain and develop knowledge and skills but also ensures adaptation to a constantly changing working environment. It is of utmost importance that Quantity Surveyors attend CPD events to ensure they provide a state-of-the-art service to their Client. In its mission of being *“responsible for the updating of professional knowledge and skills in the field of quantity surveying”*, the PQSC should follow the practice implemented by other international institutions by validating CPD events being offered, encouraging its members to attend these activities and requiring them to record these activities.

Nitin Ramphul
PQS Reg. 108



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ALTERNATIVE DISPUTE RESOLUTION (ADR) IN CONSTRUCTION PROJECTS IN MAURITIUS



Anand Juddoo¹

Introduction:

Construction projects in Mauritius often involve complex legal and contractual frameworks, leading to potential disputes between various stakeholders. Dispute Resolution in the construction industry has taken a prominent space in Mauritius and is a direct contribution to creating a sphere, which may be aptly termed as “Dispute Industry”. On the one hand, in a view to tackle the matter some standard forms of contracts have included dispute resolution mechanisms that aim to curtail or reduce the delays and costs associated with the resolution of disputes in a view to render an efficient and effective solution.

On the other hand, these very mechanisms have been amended to incorporate certain changes by contract advisors acting unilaterally thus leading to a conundrum. To ensure timely and cost-effective dispute resolution, Alternative Dispute Resolution (ADR) has gained traction and is increasingly used in the construction industry. This paper aims to provide an overview of ADR in the context of construction disputes, in Mauritius, exploring its benefits, key processes, and the legal framework supporting its implementation.

The Main Methods of ADR

Historically, Mauritius has relied on traditional litigation (i.e. courts) to resolve construction disputes. However, with the growing complexity of such cases and the need for timely resolutions, ADR methods have since taken a prominent place. One significant aspect of ADR is its ability to offer a more flexible and streamlined process as opposed to court litigation. The main methods of ADR comprise mediation, expert determination, adjudication, conciliation, and ultimately arbitration. The importance of ADR in construction projects is highly regarded when the characteristics of construction disputes, such as technical complexities, time constraints, and the need for ongoing progress of the projects are considered. Its aim is to provide an efficient and effective method of dispute resolution coupled with increased party control over the eventual outcome. ADR is becoming more popular, and there are various causes for this. In addition to more philosophical ideals like maintaining the ongoing relationship between the disputing parties and the potential for reaching compromise “solutions” to the dispute, these include speed, economy, informality, efficiency, and confidentiality of the process.

¹ Anand Juddoo is a Chartered Arbitrator, Chartered & Professional Quantity Surveyor holding a Bachelor’s degree and a Master’s in Law and a FIDIC Expert. The writer has acted as Arbitrator, Adjudicator, Quantum and Delay Expert on numerous cases.

A. Mediation- (Court)

Mediation, in the local context, is restricted to cases brought before the Supreme Court. Under the Courts Act which is the primary piece of legislation governing the courts' authority to adjudicate disputes, the Supreme Court (Mediation) Rules 2000 (the SCM Rules)² regulate procedures for mediation. A 'Mediation Court' was thus established which I will term as "court-annexed" mediation.

Under this rule any party with a claim pending before the Supreme Court may request the Chief Justice that the matter be referred to mediation, along with a justification. According to the guidelines, the fundamental goal of mediation is for the parties to resolve the civil lawsuit through an agreement or to narrow down the issues in dispute. The Supreme Court has complete original jurisdiction to hear, conduct, and deliver judgments in civil suits, actions, causes, and other issues that are presented and are ongoing before the Supreme Court. Court-annexed mediation only applies to cases laid before the Supreme Court; in fact, the 'SCM Rules', were introduced to reduce the economic burden of the costly court system and its backlog of cases, and to address the views of certain quarters to litigation that "their" dispute was taken over by the professionals, an incorrect supposition.

The 'mediation judge' provides informal and flexible guidance

while regulating the proceedings. Any formal agreement made is noted by the judge, who creates a memorandum outlining its findings and returns it to the Supreme Court for further decision or judgment. In actuality, there have not been many construction-related conflicts brought before the mediation court. The main purpose of the cases which were referred to mediation focused on narrowing down the issues.

It is the view that the Mediation rules introduced by the Government fall short of the disputants' expectation for a fully-fledged mediation law in that it does not provide commercial or private parties with a quick dispute resolution framework, the Supreme Court's mediation rules are offered only as an option to "...such civil suit, action, cause or matter which has been brought and is pending before the Supreme Court. Furthermore, in matters of construction disputes the mediation judge's knowledge of construction law is confined, which may lead to a long-drawn-out process.

Business operators and professionals would benefit from the introduction of a legal framework for private mediation. The MCCI had, in December 2015 submitted a memo to the government, instead a court-annexed mediation came into effect in 2020. It would be in the interest of justice to provide businesses with an alternative to court-annexed mediation for the

resolution of complex and highly technical disputes. Furthermore, mediation is now becoming popular alternative worldwide, and Mauritius will benefit in implementing a full-fledged mediation law for commercial parties.

B. Multi-Tiered Dispute Resolution Mechanism

The most prominent of FIDIC Model Contracts, the Red Book and the Yellow Book, included a three-stage process for resolving disputes commonly referred as Multi-tiered dispute resolution comprising an engineer's decision, conciliation and arbitration. This was later amended to include a four stage process in 1999 and 2017.

B1. Engineer Decision

The engineer's decision is the first stage under the multi-tiered dispute resolution under the FIDIC model contracts. This mechanism was introduced in the old FIDIC Red Book in 1957 and the Old Yellow Book in 1967. Indeed, this mechanism involves the parties applying to the engineer overseeing the construction supervision of the contract on behalf of the employer to obtain an engineer's decision on a disputed matter that has arisen during the execution of the works determined by the same engineer. Unless the decision is contested by one of the parties within the

² (Section 17A, Courts Act; rule 2, Supreme Court (Mediation) Rules 2010)

seventy (70) days specified, the engineer's decision is considered as the final decision and is binding on the parties. In case of dissatisfaction, any party may give a notice to begin an arbitration within 70 days in order to finally resolve the disagreement.

An updated clause was incorporated in the fourth edition of the FIDIC Red Book in 1987. The latter incorporated a procedure for an engineer's decision under Sub-Clause 67.1. This reads as follows:

An updated clause was incorporated in the fourth edition of the FIDIC Red Book in 1987. The latter incorporated a procedure for an engineer's decision under Sub-Clause 67.1. This reads as follows:

"If a dispute of any kind whatsoever arises between the Employer and the Contractor in connection with, or arising out of, the Contract or the execution of the Works, whether during the execution of the Works or after their completion and whether before or after repudiation or other termination of the Contract, including any dispute as to any opinion, instruction, determination, certificate or valuation of the Engineer, the matter in dispute shall, in the first place, be referred in writing to the Engineer, with a copy to the other party. Such reference shall state that it is made pursuant to this Clause. No later than the eighty-fourth day after the day on which he received such reference the Engineer shall give notice of his decision to the Employer and the Contractor. Such decision shall state that it is made pursuant to this Clause."

As can be noted above the 70-day period was revised to 84 days. If the Engineer does not provide a decision within the 84-day contractual timeframe or the parties are dissatisfied, there follows a procedure where the parties would attempt an amicable settlement. However, should this stage be skipped, arbitration proceedings cannot begin. If a mutually agreeable solution cannot be reached, arbitration may begin on or after the fifty-sixth (56) day after the said dissatisfaction notice or the notice of arbitration was served as the case may be. The downside of this mechanism was that the revision of a matter decided by the supervising engineer by the engineer performing the decision-making process was remote which raised further issues of natural justice inasmuch as; primo, the engineer's

independence and impartiality were questioned; secondo, the engineer is remunerated by and is under the control of the Employer and that the decision was subject to the agreement of the Employer. These raised fundamental issues on the judicial validity of the decision. This mechanism was found to be counterproductive, and the dispute resolution process was frustrating, to say the least. Meanwhile, the contractor has to shoulder a negative cash flow and continue with the execution of the work all that time or the employer unable to recover Liquidated Damages. It was on this basis that the FIDIC Form of Contract 1999 Edn. replaced the Engineer's Decision method by an independent Dispute Adjudication Board (DAB). This particular method is similar to the procedure of the engineer's decision but introduced a fair process of consultations and determination under the new sub-clause, where the engineer was required to act independently.

Sub-Clause 3.5 [Determinations] states:

"Whenever these Conditions provide that the Engineer shall proceed in accordance with this Sub-Clause 3.5 to agree or determine any matter, the Engineer shall consult with each Party in an endeavour to reach agreement".

Under this sub-clause, the engineer must bear the following in mind when carrying out the determination:

- delegation of this duty to an assistant is not permitted unless prior agreed by both parties,
- the engineer shall act under sub-clause 3.1 as amended under the particular conditions and his own contract for consultancy services,
- the engineer shall act in a fair and professional manner, irrespective of his obligations toward the Employer, and determine the matter in accordance with the said sub-clause.

Each Party was then required to give effect to each determination (last sentence of sub-clause 3.5) unless and until the determination was revised by a DAB and only then could either Party give notice of arbitration, which process would be preceded (as

always) by a period of amicable settlement.

This new provision under the Red Book and Yellow Book 1999 edition introduced another tier in the mechanism by, i.e., a reference of the fair determination to a decision rendered by a Dispute Adjudication Board (DAB) employed and paid for by both Parties under the Contract.

B2. Adjudication

The next stage involves the operation of a standing DAB nominated by agreement of the parties. It is worth noting that in the 1999 Yellow Book, the DAB was an ad hoc body that would be appointed only in case a dispute arise. The latest 2017 FIDIC Form of Contracts, both the Red Book and the Yellow Book require the appointment of the Dispute Adjudication / Avoidance Board (DAAB) at the start of the construction and must remain throughout its duration. The standing DAB/DAAB would in the first instance act as independent advisor(s) and offer advice on any issues arising during the construction stage. However, should either party reject the advice, they may submit the matter formally to the DAB/DAAB for a decision. After the parties submit their dispute to the DAB/DAAB, it shall be the DAB's responsibility to decide on the matter. The decision shall become binding should no dissatisfaction with the decision be expressed within the time frame under the provisions for the appointment of

the DAB. The General Conditions of Contract (Works) form of contract (GCC Works) issued by the PPO similarly provides for the appointment of an Adjudicator for review of the Project Manager's authority and decisions issued by the latter.

However, the adjudication clauses have been unilaterally amended or omitted. In the FIDIC Model contract the DAB/DAAB was replaced with an Engineer's Decision, whilst in the GCC Works contract the Adjudication (Clause 24) was omitted outright. This is incomprehensible inasmuch as these omissions is the cause of much distress to contracting parties and are the cause of bad blood between the parties and the contract administrators. In the case of FIDIC Model Contracts, the amendment signifies a return to the old dispute mechanism, i.e., the engineer acting as a one-man DAB. The old system has been found to be responsible for parties falling out and causing various disputes to escalate out of hand to arbitration thus contributing greatly to the time and costs of dispute resolution. Similarly, the omission of the Adjudication clause in the GCC Works contracts has created a situation where all actions of the Project Manager were left without any review especially where the Project Manager acts in excess of his authority. In my opinion, these amendments or omission does not find their place in a modern decision-making process and is regressive.

B3. Amicable Settlement

The third phase of the dispute resolution mechanism is amicable settlement and arises when a party expresses its discontent with the DAB/DAAB's decision. This stage enables the parties to communicate directly with one another rather than submitting the issues before a 'judge' for a decision commonly referred to as the "cooling-off" period. It is our opinion that parties rarely treat this stage seriously as the trust has broken down and there is no issue that could be reasonably expected to be resolved.

B4. Arbitration

The last phase of the multi-tiered dispute resolution mechanism is arbitration.

Arbitration is a mechanism where two parties agree to have their dispute decided by a third impartial person (arbitrator) whose decision is final and binding upon them. Since early times merchants decided to settle their disputes by asking a reliable neutral third party to decide on their dispute. This alternative method to settle disputes became more and more common over time and became generally accepted in the nineteenth and twentieth century.

The main characteristics of arbitration are:

- It is a **private** means to resolve a dispute. This implies that the parties referring their dispute

out of the court system and keeping the proceedings private by excluding third parties and keeping the discussions confidential. Hence all submissions, hearings and awards are not open to the public.

- **Consent** is the basis of arbitration. Arbitration is a consensual process that materialises through an arbitration agreement in the underlying contract. Once a dispute has arisen, the parties may invoke the agreement to arbitrate. However, lack of consent will mean that the arbitral tribunal has been unilaterally appointed and will lack jurisdiction.
- The dispute is decided by the arbitral tribunal in the form of an **award** by deciding on the rights and obligations of the parties to the dispute. The award is issued following the conduct of a fair, efficient and expedient process that provides equal treatment of the parties.
- The award concludes the process and is **final and binding**. The commercial parties have jointly consented to an expedient process with the finality of the process incorporated in the arbitration agreement in that there shall be a binding and final decision. The refusal of one party to comply with the award may cause the prevailing party to seek an exequatur by filing enforcement notice in the Supreme Court.

Advantages of Arbitration

Traditionally arbitration is deemed to be advantageous when compared to the court system:

- **Speed.** Parties have expressed that speed is one of the main benefits of arbitration over court proceedings. However, in certain cases involving simple disputes, it has been found that the commercial court is more expeditious, and the complexity of the case means that the arbitration may last longer. However, due to the fact that there is no right of appeal in arbitration, a decision is usually made more quickly in this setting.
- **Confidentiality.** Generally, arbitration is private and entails confidentiality at all stages of the proceedings. The arbitration agreement should for avoidance of doubt include a provision for confidentiality if the parties want their proceedings to be kept private.
- **Neutrality.** Arbitration involves a neutral forum for the proceedings and provides for neutral and impartial person(s) as arbitrators.
- **Flexibility.** Arbitration involves party autonomy and therefore the parties jointly regulate the procedure, the submissions, the submission of evidence, the hearing of witnesses and experts to render the arbitration flexible as opposed to the rigid court procedures.

- **Selection of arbitrators.** The parties have a pool of experts qualified in the dispute matter from which to select who will decide over the dispute hence are confident that the process will be smooth and streamlined.
- **Cost.** Arbitration is less expensive than court procedures however the reality is that cost depends on the duration of the proceedings and arbitrators must be paid (contrary to judges). But considering again that there is a technical tribunal with expertise in construction matters and that there is no appeal coupled with the enforceability of awards, substantial money can be saved. Furthermore, the winning party obtains all its legal costs and the costs paid to the arbitrator(s).

The Legal Framework for ADR in Construction Projects

Mediation

Apart from court-annexed mediation as described above, there is no legislation governing private mediation. The industry will be best served by a legal framework for a Mediation Act similar to the Arbitration regime for domestic and international disputes.

Adjudication

Presently there is no legal framework governing adjudication, it is expected that

the gap will be plugged once the proposed Construction Contracts Bill is enacted. The aim thereof is (a) to prohibit or modify certain provisions in construction contracts; (b) to imply provisions in construction contracts about certain matters if there are no written provisions about the matters in the contracts; (c) to provide a means for adjudicating any disputes arising under construction contracts, and for related purposes.

The proposed legislation will apply to construction work and to goods and services related to construction work to ensure that contracts are fair, and that payment is regulated. The absence thereof has always resulted in the parties performing the construction work or supplying the goods or services being subjected to onerous and unjust contract terms. Long-term delays and disruptions frequently lead to significant disagreements about time and cost entitlements, which have a negative effect on project completion and delivery. Therefore, it is justified for appropriate legislation to be introduced to handle these perennial problems by making sure that unjust contractual terms are expressly forbidden, and clauses be implied in construction contracts. Common issues facing the industry include significant delays in resolving disputes that develop as well as difficulty in getting payment for work completed or for the supply of goods or services.

All too often, payments are improperly withheld, or claimants receive late or underpaid payments without interest. They experience severe contractual difficulties due to this condition, which frequently leads to performance failures and in some cases termination of the contract or insolvency of the contractors. It is the view of the writer that legislation is essential to handle such damaging issues. The adage in the construction industry that “cash flow is king” is well known. Under the proposed act any disputes concerning non-payment or other disputes will be dealt with under a statutory adjudication scheme. The significance of this Act will, it is expected, be the promotion of fair practice, the preservation of cash flow, and an efficient dispute resolution mechanism for the construction industry.

Arbitration

The legal framework for domestic arbitration is provided under the “*code de procedure civile de l'arbitrage*”. This code was enacted in 1981 and is still in force in Mauritius. It is, according to the writer, a tad outdated and does not meet the exigencies of a modern society. There are various loopholes in the act which in turn leads to an abuse of process resulting in lengthy delays and significant costs. It must be stated that arbitration does not come cheap in Mauritius thus doing a disservice to the industry. Legal and other costs are burdensome and out of reach of a certain class of contractors, with the result that they are unable to pursue their claim to fruition. Furthermore, the clear lack of technical arbitrators has caused a gap whereby certain awards rendered by non-technical arbitrators leave a lot to be desired.

The following has been found to be of concern:

- **Nomination:** Once a dispute arises parties invoke the arbitration clause under the contract, and negotiate on the appointment of the arbitrator. There arises a disagreement on the choice of arbitrators whereby the deadlock has to be referred to the Judge in Chambers of the Supreme Court as is normally provided in the arbitration agreement, in order to police the appointment. Invariably the persons identified initially are discarded and another person is named, without any consideration of his credentials and experience for undertaking a construction dispute. The very advantage of parties having an arbitrator of their choice is thus severely curtailed. It is therefore important for the parties to keep the nomination process away from the courts and also save considerable time and costs on the appointment process.
- **Post-appointment process:** Various tactics are used by the non-diligent party to delay the drafting and signature of the arbitration agreement and the delay in submitting its respective statement of case or attempting to revise its statement of case after having had sight of the other party's in all impunity.

- **Hearing process:** Arbitration proceedings are court procedures³ which too often are geared around the counsel's availability and has no place in modern arbitration practice.
- **Evidence:** a laborious process where witnesses are heard "viva voce" and conducted in accordance with the law of evidence and the Courts' Act. There is an absence of party autonomy in having an efficient presentation of evidence.
- **Publication of awards:** The law made provision for the issue of awards within 6 months from the date of the first hearing, but all delays created at the various stages listed above means that awards are delayed. In addition, the awards are not properly reasoned. The decision on the quantum is impressionistic instead of being properly calculated.
- **Costs:** The general rule is that the costs follow the event, however, this rule does not do justice to the Claimant, inasmuch as the delays caused by the losing party goes in total impunity.

The Future

However not everything is bleak, arbitral tribunals are responding to the needs of the parties by taking a proactive approach to ensure fast and efficient proceedings that provide prompt appointment of the tribunal, adhere to the procedural agenda, provide expeditious hearing of witnesses by ensuring witness statement and expert witness statement and the publication of reasoned awards within the time agreed. However, given the highly technical nature of the dispute, there is a dearth of technically qualified professionals available to carry out the arbitrator's duties. Professional Quantity Surveyors (PQS), in particular, has a definite advantage in that they fully understand the contractual intricacies of issues surrounding the adjudication of the liability of a dispute and are, in addition, well-versed in carrying out the assessment of the quantum of a contractual claim. In fact, the knowledge and experience of PQS should put them in an advantageous position

to undertake this role provided they undergo appropriate training in this field. PQS will need to overcome these obstacles by continuing to reinvent themselves and continually adding value and enhancing their professional services. This will bring more technical arbitrators providing a choice to disputing parties departing from the traditional appointment process. This will cause arbitration proceedings to achieve a different dimension and should provide an efficient and effective system of dispute resolution for the benefit of the dispute industry.

CONCLUSION AND RECOMMENDATIONS

By adopting ADR methods, the construction industry in Mauritius can enhance project outcomes, reduce litigation costs, and foster a collaborative environment among project participants. Embracing ADR not only promotes timely dispute resolution but also strengthens the belief of parties that proper efficient, effective, and cost-effective dispute resolution methods are at their disposal.

Prem Anand Kumarsingh Juddoo

PQS Reg. 059

³ Article 1018 Act Nr 1, 1981



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The Building and Civil Engineering Contractors Association (BACECA) is a registered Trade Union with the Registry of Associations under the Industrial Relations Act, 1973 since 19th December 1996. BACECA is the Trade Union of building and civil engineering companies. It is the very first alliance of contractors in Mauritius and to date, the only employers' union of the construction sector.

BACECA is open to contractors engaged in the design and execution of building and civil engineering works and in all other associated trades. Our members are regularly solicited for their opinions on relevant and/or current matters pertaining to or affecting the local construction industry. Also, they are nominated to represent the Union at events that concern professionals of the construction sector and to express the position of the Association and argumentation on matters of concern to all stakeholders. Team spirit and teamwork are the essential elements that have always been present to solve problems affecting the common interests of all members.

BACECA has signed a Procedural Agreement with the Construction, Metal, Wooden and Related Industries Employees Union (CMWEU) and the Private Enterprises Employees Union (PEEU) since 1998. Collective bargaining is a key means through which both parties, the employers and the employees, can establish fair wages and working conditions for the whole construction industry. It also provides the basis for sound industrial relations.

BACECA sits and participates actively on main national councils, both private and public, namely Business Mauritius, Construction Industry Development Board and Building Control Advisory Council. Thanks to the participation of its members, BACECA is present on the various public/private committees/commissions whenever invited by the public/private sector. This active involvement allows the organization to respond quickly to any important topical issues affecting the sector.

BACECA among other activities also:

- provides key input every year for the National Budget preparation;
- constantly thrives for the training and development of skills for the industry;
- acts as a key facilitator in the industry, for example during COVID-19 national lockdowns, assisted stakeholders of the industry in applying for and obtaining Work Access Permits and facilitated the vaccinations for construction employees through Business Mauritius and the Economic Development Board.
- plays a social role in working together with Government to assist the local community in response to natural catastrophes as well as man-induced disasters.

At BACECA, we help create the conditions for enterprise success, productivity growth and economic development by influencing the environment in which construction companies do business and by providing services that improve performance. Our Vision is to work with the Government of Mauritius to create jobs, support the economy and provide the necessary infrastructure for the benefit of the population.

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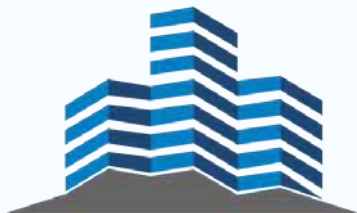
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CHALLENGES FOR QUANTITY SURVEYORS IN DESIGN & BUILD PROJECTS



Introduction

Design & Build (D&B) projects have gained popularity in the construction industry due to their streamlined approach, which integrates the design and construction phases. In these projects, Quantity Surveyors (QS) play a crucial role in managing costs and ensuring the project's financial success. However, working in D&B projects poses unique challenges for QS professionals. This article explores some of the key challenges faced by QS's in Design & Build projects.

Early Cost Estimation

One of the primary challenges for QS professionals in D&B projects is the need for early cost estimation.

Unlike traditional procurement methods, where detailed designs are finalized before cost estimation, D&B projects require QS to provide accurate cost estimates based on preliminary designs. This challenge arises because the design and construction processes run concurrently, often leading to changes and variations during construction. QS must rely on their expertise and experience to estimate costs accurately and manage potential risks associated with evolving designs.

Balancing Cost and Quality

In D&B projects, there is a delicate balance between cost and quality. Clients often have specific requirements and expectations for the project, and QS professionals must work closely with the design and construction teams to ensure that these requirements are met within the defined budget. Balancing cost and quality become a challenge as design changes, scope variations, or unforeseen circumstances during construction can impact the project's overall cost. QS's must carefully evaluate the cost implications of design changes and suggest alternative solutions to maintain the desired quality and functionality while managing costs effectively.

Managing Contractual Relationships

In D&B projects, QS professionals must navigate complex contractual relationships. Unlike traditional procurement routes, where the client contracts separately with the design team and the construction contractor, D&B projects involve a single contract between the client and the D&B contractor. This integration of responsibilities can create challenges for QS in terms of managing contractual obligations, ensuring transparency, and addressing potential

conflicts of interest. QS professionals must have a thorough understanding of the contract terms and conditions, maintain clear communication channels with all stakeholders, and proactively resolve any contractual disputes that may arise.

Risk Management

Risk management is a critical aspect of any construction project, and D&B projects are no exception. QS professionals face challenges in identifying and mitigating risks associated with design changes, unforeseen site conditions, market fluctuations, and project delays. They must employ robust risk assessment techniques, such as value engineering and cost modelling, to analyze the potential impact of risks on project costs and schedule. Additionally, QS professionals must stay updated on industry trends and regulations to anticipate and manage emerging risks effectively.

Collaborative Decision-Making

Effective collaboration and decision-making are essential for successful D&B projects. QS professionals need to work closely with architects, engineers, contractors, and other stakeholders to align project objectives, resolve conflicts, and make informed decisions that balance cost, quality, and schedule. Collaborative decision-making can be challenging, especially when there are differing priorities and viewpoints among stakeholders. QS professionals must facilitate open and transparent communication, foster a collaborative environment, and use their expertise to guide decision-making processes that best serve the project's financial interests.

CONCLUSION

To conclude, Design & Build projects offer numerous advantages, such as faster project delivery and greater cost control. However, Quantity Surveyors face specific challenges in effectively managing costs, risks, and contractual relationships within the context of these projects. Early cost estimation, balancing cost and quality, managing contractual relationships, risk management, and collaborative decision-making are some of the key challenges that QS professionals encounter in D&B projects. Overcoming these challenges requires a combination of technical expertise, effective communication skills, and a proactive approach to problem-solving. By addressing these challenges head-on, Quantity Surveyors can play a vital role in ensuring the financial success and timely completion of Design & Build projects.

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THE RELEVANCE OF CONSTRUCTION-SPECIALISED APPS IN THE MAURITIAN CONSTRUCTION INDUSTRY

In an era propelled by technological developments, most if not all industries are experiencing dramatic transformations at all levels, and the Construction Industry is no exception. Specialised apps in the form of cloud technology, immersive technologies and mobile applications serve as innovations in the Construction sector.

Construction apps are software used on mobile phones, tablets, laptops or any other device using operating system such as android, iOS or any other compatible platform. At present, the construction workers mostly use smartphones and others at a higher management level use tablets. Construction-oriented apps contribute towards better

collaboration, coordination, communication, implementation and upkeep in real-time among all stakeholders. These apps can play a dynamic role in improving current and future technologies.

However, can these specialised apps be relevant to the Mauritian Construction Industry? In this article, we delve into how technology is evolving at a fast pace and whether those apps can be relevant to the local construction industry in the following points.

In the Mauritian Construction Industry, apps have proven to be extremely important in project delivery. Mobile apps immensely help in construction projects by *increasing effective communication among all stakeholders, productivity on site, manage in reducing errors in the execution of works, overall process time, cost saving and fostering greater collaborations among the construction industry.*

Enhancing Communication

Effective communication is crucial in the smooth running of construction projects. Mobile technology bridges the gap between the site and the office by facilitating on-the-go communication between



construction professionals, office workers, contractors, suppliers, onsite workers, clients and other stakeholders. It is necessary for construction personnel to communicate with other professionals in order to confirm instructions, submit reports, and inform them of critical decisions. Construction-related applications allow Quantity Surveyors/Project Managers and other professionals to perform real-time monitoring of construction sites which, in turn, improves communication as they can directly track any reports. Mobile applications make it easy to save records of correspondence between construction personnel and other stakeholders.

Time & Cost Savings

Construction applications have undeniably saved the time of stakeholders by shortening a significant portion of their tasks and routines. Approvals from personnel for critical matters can be obtained spontaneously. Quantity Surveyors / Project Managers and Site Supervisors can use construction apps to monitor project progress and ensure all requirements for the next phase are ready on time. They can receive and share project reports and communicate with clients more effectively through these mobile apps.

Printing of documents is expensive with the costs associated with paper, binding, cartridge ink and printer while managing a project. Technology can help in reducing Carbon Footprint and enhance environmental impact. Management needs to employ personnel to handle the administrative tasks. Therefore, Construction apps can significantly reduce the usage of paper documents and softcopies can easily be shared. Moreover, they facilitate access to tasks like keeping records on attendance, overtime, monitoring documents, and giving feedback, allowing people to save time and money compared to a manual approach. An example is the "Procore" app which is a leading construction management platform that links over two million construction professionals in over 100 countries. This app provides all shareholders with the appropriate tools they need to get the job done. Another app is the Microsoft Project (MS Project) which is a project management software used to create schedules, project plans, manage resources and keep track of time. It also has features such as Gantt charts and projects calendars which is easily accessible via mobile for better, efficient resource and time management. Primavera planning software which includes project management, scheduling, risk analysis, resource, collaboration and control capabilities. Weather apps have good utility in providing accurate weather information, which is useful in the planning of site visits, as unnecessary travel can be avoided during bad weather conditions.

Therefore, these apps can help in optimising schedules and organising company operations.

Productivity on site

Many construction professionals use WhatsApp as a primary tool for communication. Groups are created by admins to share documents, progress reports including photographs or videos, notes of meetings, requests for information and site meetings. Microsoft apps such as Skype and Microsoft Teams have been very useful to the industry over the years. The Zoom app was crucial in monitoring project progress and delivery during difficult times such as the Covid-19 outbreak. Meetings with stakeholders were done through the above-mentioned apps. Sanitary measures could not permit people to group up, this apps have been of such importance in delivering projects. Construction progress could also be viewed through these apps without physically be onsite. DroneDeploy is an app that had powerful mapping application that can transform images that are taken from flying of drones into high-resolution maps with relevant information on the terrain elevations and provide tools for calculating distance, area and volume.

Reducing Hazards

Construction sites require more safety awareness due to prevailing hazards. Contractors have the duty to ensure proper sign boards are erected in line with the Occupational Health & Safety Act and regulations in Mauritius. Risk assessment apps such as Risk Matrix or Decision Tree have the potential to identify, assess and manage potential risks and hazards in the construction industry. It can be easily monitored by Project Managers with a smartphone or digital device which can track potential risks and hazards notify users and also record in the risk register for future projects. Also, apps allow for the automatic acquisition of potential protective equipment whilst ensuring all personnel are compliant with current legislation.

Data Management

Good data management allows construction companies to stock and share data efficiently, which can lead to better decision-making, improve quality control and reduce unnecessary costs. Project management apps with data analytic capabilities can help firms save time, increase accuracy, and make well-informed decisions throughout each stage of the project cycle. Bulky data storage has been reduced to easy and immediate use over cloud, OneDrive or Oracle. Changing into digital has certainly reduced space and is easily accessible anywhere, anytime with any device.

Weaknesses & Threats

The readiness for implementation by all construction firms, organisations and Government for the use of a common specialised construction app can take years. On the other hand, Policy implementation and enforcement could be a major hurdle. Those specialised construction apps need to be funded by third parties, and in return, no one can guarantee that all construction workers will work under the same apps as there is rapid growth of new technologies and digital competitiveness nowadays.

Cyber Security could be a major constraint for those specialised apps, as it may be targeted by hackers. Data protection is really important in safeguarding data and this could be vital for the aspect for a healthy firm. However, it can be very expensive to acquire licenses for apps and maintain security.

CONCLUSION

Construction-specialised apps have great flexibility and hold good potential to enhance several areas of management in the construction sector. Although there are advantages and disadvantages to using these apps, their adaptation to the Mauritian Construction industry will be lengthy. Software such as Building Information Modelling (BIM) might help the industry in achieving implantation. BIM can be a huge benefit in integrating different disciplines within the construction industry into one platform for all users thus creating an open platform for real-time collaboration.

Specialised apps such Fieldwire, LetsBuild, DroneDeploy.... etc. (see table below "Best apps for Construction") may take significant time to be implemented. However, regular apps as mentioned above are indeed of great use and effectiveness.

Construction Specialised Applications (Apps)			
Description	Key features	Advantages	Disadvantages
LetsBuild	<ul style="list-style-type: none"> • Quality, health, safety, and environment tracking • Progress monitoring 	<ul style="list-style-type: none"> • Automation tools • Compliance support • Advanced project progression tracking 	<ul style="list-style-type: none"> • Expensive • Steep learning curve
Procore	<ul style="list-style-type: none"> • Pre-construction planning tools • Project management capabilities • Workforce management 	<ul style="list-style-type: none"> • Robust set of tools and features • Unifies all project data 	<ul style="list-style-type: none"> • Not suitable for smaller contracting companies
Fieldwire	<ul style="list-style-type: none"> • Task management tools • Scheduling • Punch list creation 	<ul style="list-style-type: none"> • Easy to use • Can create lists/notes while on the go 	<ul style="list-style-type: none"> • Price varies
When I Work	<ul style="list-style-type: none"> • Shift scheduling • In-app communication • Push notifications • GPS tracking • Multiple job sites 	<ul style="list-style-type: none"> • All-in-one solution • Cost-effective • Integrates with payroll systems 	
iNeoSyte	<ul style="list-style-type: none"> • Field reporting tools • Ability to attach photos 	<ul style="list-style-type: none"> • Advanced capabilities • User-friendly design • Integrates with popular tools 	<ul style="list-style-type: none"> • Expensive • Most tools are only available with advanced subscription
Safety Meeting App	<ul style="list-style-type: none"> • Compliance tracking capabilities • Manage OSHA requirements, state and federal laws 	<ul style="list-style-type: none"> • Supports compliance • Streamlines document management • Safety meeting attendance tracking 	<ul style="list-style-type: none"> • Expensive
DroneDeploy	<ul style="list-style-type: none"> • Create real-time site maps • Create interactive models • Share project timelines 	<ul style="list-style-type: none"> • Generate detailed reports • Limit user access with customizable permissions • Keep everyone in the loop with interactive models 	<ul style="list-style-type: none"> • Drones and additional requirements are needed • Complex platform
Smartsheet	<ul style="list-style-type: none"> • Connect on-site and office-based teams • Construction project progress tracking dashboard 	<ul style="list-style-type: none"> • End-to-end planning tools • Allows managers to track cost overruns and delays • Affordable 	<ul style="list-style-type: none"> • Setting up the platform can be tedious
Magicplan	<ul style="list-style-type: none"> • Create 2D and 3D plans • Attach field reports, notes, and photographs • Create shareable PDFs 	<ul style="list-style-type: none"> • Dynamic platform • User-friendly design • Lots of features 	<ul style="list-style-type: none"> • Expensive
Source: www.wheniwork.com/blog/10bestappsforconstruction			

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PROMOTING EXCELLENCE IN THE CONSTRUCTION INDUSTRY



The construction industry stands as a cornerstone of economic development and progress worldwide. This is especially true in Mauritius whereby it shapes the nation's landscape and contributes significantly to its socio-economic development. The Construction Industry Development Board (CIDB) plays a crucial role in promoting excellence in the sector. Established under the CIDB Act of 2008, the CIDB is tasked with advancing the construction industry and ensuring that contractors, consultants, suppliers and service providers meet rigorous standards. Over the years, the CIDB has evolved to align with international best practices, bringing about changes that underscore the industry's commitment to quality, collaboration and professional growth.

Under the aegis of the Ministry of National Infrastructure and Community Development (MNICD), the CIDB is empowered with a defined set of objectives and functions to pursue its mission effectively. This mission revolves around promoting excellence, adherence to standards, and regulatory oversight within the construction industry. As the core of its responsibilities is the registration and regulation of key players within the construction sector. This includes contractors, consultants, suppliers and service providers such as CAD Operators, Draughtsmen and Technicians.

The CIDB Act

The journey of the CIDB began with the CIDB Act 1997. Subsequently, the Act was repealed and replaced by the CIDB Act 2008. One of the main functions of the CIDB under the CIDB Act 2008 is the registration of contractors and consultants. This responsibility marked a significant shift in the industry, centralizing the registration process under the CIDB's authority.

Under the provisions of the CIDB Act, any entity undertaking construction projects valued at MUR 1 million or more, inclusive of VAT, is obligated to register as a contractor with the CIDB. Similarly, consultancy firms offering their services in the construction industry are legally bound to be registered under the CIDB Act. The requirements are in place to ensure that industry professionals meet certain standards and adhere to ethical and regulatory guidelines.

The construction industry in Mauritius has been evolving to align with international best practices and promote local growth. Recent amendments introduced through the Finance (Miscellaneous Provisions) Act 2023, effective from July 20, 2023, reflect this commitment. Three key amendments are particularly noteworthy:

- **Collaboration for Renewable Energy Projects** | The first amendment mandates collaboration between local and foreign contractors for utility-scale renewable energy projects of installed capacity exceeding 2 megawatts. This collaborative approach encourages knowledge transfer and supports the sustainable development of the energy sector in Mauritius.
- **Waiving-off Collaboration for Foreign Contractors and Consultants** | The second amendment allows foreign contractors and consultants to work independently if local counterparts lack the required experience or expertise for the implementation of a project. This flexibility maintains project progress while opening opportunities for skills development within the local construction industry.
- **Inclusion of Environmental Impact Assessment** | The third amendment broadens the field of specialization for consultants by incorporating Environmental Impact Assessment (EIA) as an additional field of specialisation.

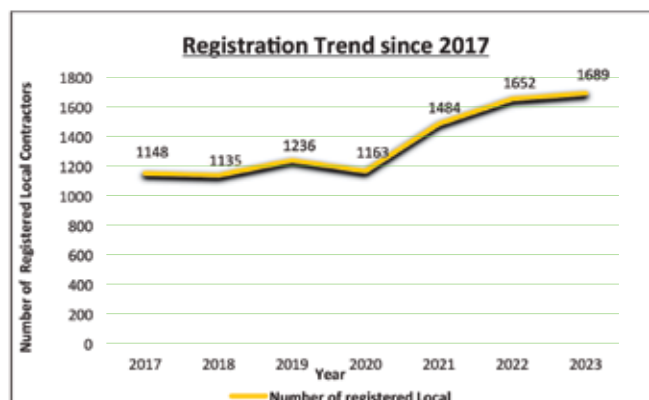
Registration of Local Contractors

A new grading system (Table 1), effective since January 1, 2022, categorizes contractors based on the value of contracts they undertake.

Table 1: Grading System

Previous Grade	Current Grade	Value of contract a contractor is allowed to undertake (Exclusive of VAT)
A+, A	Large	Up to any amount above Rs 1,000 million
B, C	Medium I	Up to Rs 500 million
D, E, F, G	Medium II	Up to Rs 200 million
H	Small	Up to Rs 20 million

The registration figures reveal a growing interest in the industry. From 1,148 Local Contractors in June 2017, the number increased to 1,652 by June 2022, demonstrating an average annual growth of approximately 9%. By June 2023, 1,689 Local Contractors held Certificates of Registration, representing 1,361 registered firms. The figure below indicates the trend in the registration of Local Contractors between 2017 and June 2023.



Registration of Local Consultants

By June 2023, 256 Certificates of Registration were issued to Local Consultants, encompassing a wide array of specialisation. The breakdown of Registered Consultant firms by field of specialisation is as follows:

Table 2: Registration of Local Consultants

Field of Specialisation	Number
Architecture	73
Civil and Structural Engineering Services	39
Electrical Engineering Services	2
Environmental Engineering Services	2
Interior Design	7
Landscape Architecture	4
MEP Engineering Services	18
Mechanical Engineering Services	2
Project Management in Construction	63
Quantity Surveying	42
Urban Planning	3
Third-Party Certification	1
Total	256

Collaboration in the Construction Industry

Collaboration is a fundamental element in enhancing the construction industry's capacity. Regulations introduced on October 1, 2021, mandate that Foreign Contractors collaborate with Local Contractors for construction projects. This collaboration takes various forms, such as joint ventures or subcontract agreements tailored to the projects' needs and the collaborators' capabilities.

Similarly, Foreign Consultants are required to collaborate with Local Consultants in their respective fields of specialisation. The terms of the collaboration depend on experience, expertise, contributions and project requirements. An essential feature of these collaboration agreements is the requirement for Local Consultants, specifically those offering architectural, engineering, or quantity surveying services, to be eligible to at least 25% of the total consultancy fee.

These regulations signify the determination of CIDB to foster knowledge transfer, support local professionals, and ensure the quality of construction projects in Mauritius.

Enforcement Powers of CIDB

The CIDB holds a pivotal role as the regulatory body for the construction sector. To ensure compliance with legislation, policies, and procedures relevant to the construction industry, the CIDB has been granted additional enforcement powers in July 2021. Under Section 25A of the CIDB Act, the CIDB can issue Compliance Notices to individuals offering services without registration, ordering them to cease their activities and to apply for registration. Additionally, Section 26A allows the CIDB, with the consent of the Director of Public Prosecutions, to compound offences, further ensuring adherence to industry

regulations.

Quality Management System (ISO 9001:2015)

In its commitment to excellence and good governance, the CIDB has implemented a Quality Management System (QMS) and received ISO 9001:2015 certification from the Mauritius Standards Bureau on 30 May 2023. This certification reflects the CIDB's dedication to consistently meeting customer requirements, enhancing satisfaction, and aligning its practices with its organizational goals and aspirations.

Online Registration

The CIDB has embraced digital transformation by introducing an online E-Registration system, launched on October 27, 2022. This digital platform streamlines the registration process, offering applicants a convenient one-stop shop for submitting applications, making payments, and receiving their Certificates of Registration online. The E-Registration system enhances communication between the CIDB and its stakeholders and facilitated document uploads, with further enhancements planned for handling complaints and conducting industry surveys.

Indicative Schedules of Rates

The CIDB has developed an Indicative Schedules of Rates (ISOR) which is a valuable resource for contractors and consultants. It contains over 3,000 construction items, including works and services items, that serve as a guideline for rate calculations. The ISOR is freely accessible on the website of CIDB, providing detailed rates for different construction activities and consultancy services, further promoting transparency and informed decision-making in the industry.

Capacity Building and Development

As part of its mandate, the CIDB regularly organizes training programs and workshops to strengthen the capabilities of construction industry stakeholders. During the past year, these events have focused on project management, challenges faced by contractors, the provisions of the CIDB Act and registration through the E-Registration system. Collaboration with the Association of Consulting Engineers (ACE) has resulted in training programs on the practical application of FIDIC Conditions of Contract and Contract Management.

CIDB and PQSC

The CIDB and the Professional Quantity Surveyors' Council (PQSC) have been collaborating since long for the advancement of the construction industry. The support and contribution of the PQSC's member on the CIDB Council has been unwavering and has helped to cement a better relationship whereby both CIDB and PQSC are jointly aiming at transforming the construction sector into a modern, sustainable and resilient industry.

On the occasion of the celebration of the 10 years of PQSC's existence, the Chairperson and Council

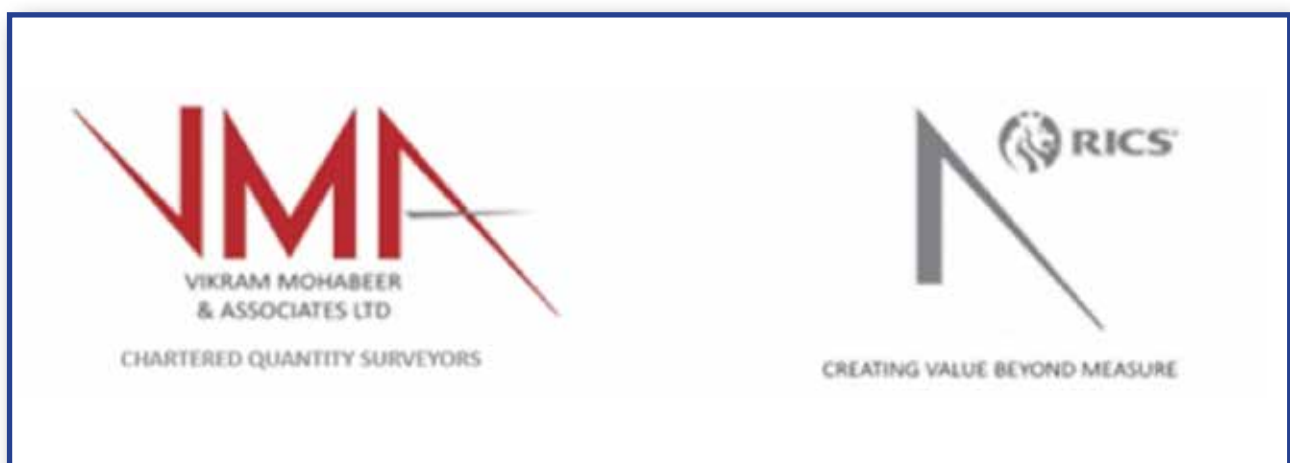
Members of CIDB, together with the Officer-in-Charge and all Staff, seize this opportunity to congratulate the PQSC and wish them for more success in their journey.

Way Forward

Over the years, the CIDB has flourished as the regulatory body for the construction industry and is leaving no stone unturned towards transforming the construction industry into the driving pillar of our economy. The focus for the CIDB remains on quality, efficiency and effectiveness.

As mentioned in the Budget Speech 2022/2023, the Construction Industry Development Board (CIDB) and the Building Control Advisory Council (BCAC) will be merged into the Construction Industry Authority (CIA). New legislation are currently under preparation in this endeavour. A Construction Industry Training Council (CITC) would also be set up under the aegis of the CIA to reinforce the construction industry's capacity and improve the skills of its workforce.

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THE COST OF GREEN BUILDINGS

Green buildings have been gaining popularity in recent years due to the growing concern for the environment and sustainability. These buildings are designed to reduce environmental impact while providing a comfortable and healthy space for occupants. However, one of the main concerns people have about green buildings is their cost. It is true that green buildings may have a higher initial cost compared to traditional buildings.

The materials and technologies used, such as insulation and energy-efficient glazing, can be more expensive. The design and construction process may also require specialised expertise or added considerations, which invariably add to the cost. Green buildings seem unattractive to developers who prioritise fast investment returns due to costs attributed to implementing sustainable features, and consequently, only 19% of existing buildings are certified for green, globally (Achini Shanika Weerasinghe & Ramachandra, 2020).

However, it is important to consider the long-term benefits of green buildings.

Based on the extant literature, the additional cost of green buildings varies widely. The additional cost also depends on the level of “green” of a building and the type of building construction. In South Africa, a study found the additional cost is 8.55%. Another study noted an average additional cost of 10.77%. In Reunion Island, the perception from industry players is 10%.

They are designed to be resource-efficient, which can lead to significant savings on utility bills over



time. They also have a longer lifespan, which means less frequent repairs and replacements. These benefits can result in cost savings over the life of the building. In addition to cost savings, green buildings can also increase the value of a property. This increase in asset value can make green buildings a more financially viable investment in the long run. Studies have shown that the cost savings from green buildings can outweigh the initial investment within a few years. For example, a report by the U.S. Green Building Council found that green buildings on average, have a 6% increase in asset value and

20% lower maintenance costs compared to traditional buildings. The savings can be as high as 40% of operational costs after the initial years(GSB, 2019). Another study concluded that after 20 years, the savings will probably have amortised 2 to 3 times the initial investment(Goncalves, 2019).

The literature abounds with solid business cases for the value of green buildings. Unfortunately, we do not have enough construction and operational cost data for Mauritius, making it difficult to understand the cost of green buildings in our context. Establishing a

construction cost data observatory is an essential step in supporting policymaking and construction industry processes in Mauritius. There is some information that was obtained from Reunion Island. Table 1 provides a comparison between conventional and green (bioclimatic) buildings.

Table 1
Comparison between conventional and green/bioclimatic building –
Reunion Island (Ecosis, 2022)

	Conventional office building	Energy efficient/green /bioclimatic building without air conditioning (AC)	Energy efficient/green/ bioclimatic building With AC and ceiling fans
Investment (MUR.m2)	95,000 MUR	104,000 MUR/m ²	105,000 MUR/m ²
Energy consumption	100 kWh/m ² /y	20 kWh/m ² /y	70 kWh/m ² / y
Cost of energy	950 MUR/m ² /y	95 MUR/m ² /y	660 MUR/m ² /y
Maintenance costs	950 MUR/m ² /y	0	710 MUR/m ² /y
Annual cost	1900 MUR/m ² /y	95 MUR/m ² /y	1370 MUR/m ² /y
Savings	0	1805 MUR/m ² /y	530 MUR/m ² /y
Pay back period	0	5 years	18 years

If we look at the economic benefits, green buildings can attract more tenants or buyers. As sustainability becomes a more pressing issue, more people are looking for environmentally friendly buildings to live or work in. Green buildings offer a healthy and comfortable space for occupants while also reducing their impact on the environment. For office buildings, studies concluded increased productivity

and staff retention for retail buildings, increased sales. This can be a selling point for potential tenants or buyers, which can lead to increased occupancy rates and higher rental or sale prices. As regulations become more rigorous, green buildings future proof investments, and reduce the need for upgrade costs. For example, some buildings could not be rented in South Africa after

the enactment of new energy regulations. While the initial cost of green buildings may be higher, there are also incentives and grants available to help offset these costs. Governments and organisations often offer financial incentives to promote the construction of green buildings.

Agence Française de Développement (AFD) offered green finance under the SUNREF label for many years. Under SUNREF III, whilst most investments qualified for 5% cash back on the green investment, a certified green building could obtain 15% cash back. These incentives can make green buildings more financially feasible for developers and property owners.

It is also important to note that the cost of green building materials and technologies is decreasing as they become more widely used. This means that the initial cost of green buildings may become more comparable to that of traditional buildings in the near future. It should also be noted that there are green features that do add to the cost, such as the proper orientation of the building.

There are also various financing options available for green building projects. For example, green bonds can be used to finance the construction of green buildings. These bonds are specifically designed to finance environmentally sustainable projects and can provide lower interest rates compared to traditional financing options.

In conclusion, while green buildings may have a higher initial cost, it is important to consider the long-term economic benefits and potential cost savings. Green buildings are designed to be resource-efficient, which can lead to significant savings on utility bills over time. Additionally, green buildings have a longer lifespan and can increase the value of a property. As sustainability becomes a more pressing issue, green buildings will become increasingly important and financially viable.

Furthermore, there are incentives and financing options available to help offset the initial costs of green buildings.

But let us not forget why we are designing and constructing green buildings in the first place.

Building and construction sector is the lowest hanging fruit for combatting climate change. It is estimated that conventional buildings use about 40% of global energy, 40% of other resources, 25% of global water, and emit approximately 1/3rd of Green House Gas (GHG) emissions while green buildings have 19% lower aggregate operational costs, 25% of less energy, and 36% of fewer CO2 emissions (Ramachandra et al., 2018)

Through green buildings and a sustainable built environment, positive impacts are not environmental, but they can equally address socio-economic challenges.

It is the right thing to design, build and operate green buildings.

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FROM TRADITIONAL TO TECHNOLOGICAL: A PARADIGM SHIFT IN QUANTITY SURVEYING

'Quantity Surveying is a dying profession!' That was the thought when Building Information Modelling (BIM) and Computer-Aided Design (CAD) software were introduced to our construction industry more than three decades ago and still being perceived today, with the addition of Artificial Intelligence (AI), Primavera, Virtual Reality (VR) and an endless list of Information Technology (IT) solutions.

Yet, the demand for Quantity Surveyors (QS) is never-ending!

The construction industry has always been a cornerstone of human development, shaping the environments we inhabit and the infrastructure that supports our societies. In its ever-changing landscape, the role of the QS has undergone a remarkable evolution, largely driven by the seamless integration of IT solutions.

Gone are the days of manual quantity take-offs and lengthy calculations performed on reams of paper. From manual

calculations to digital precision, QS professionals are now harnessing the power of IT to elevate their contributions to construction projects and meeting Clients' needs. This shift not only enabled quantity surveyors to work more efficiently and accurately but also allowed for greater collaboration and real-time data exchange among project stakeholders.

BIM integration, real-time cost management, enhanced collaboration, and data-driven decision-making are just a few facets of the QS role that have undergone significant transformation.

The advent of BIM has been a game-changer for QS professionals. BIM is a digital representation of a building's physical and functional characteristics, offering a comprehensive view of a project's lifecycle. Embracing BIM enables the QS to extract detailed quantities and cost information directly from the model. This integration significantly enhances the accuracy of cost estimation,



minimizing discrepancies and eliminating the need for time-consuming manual calculations, hence making the QS faster, smarter, and more precise.

IT tools have revolutionised cost estimation and cost tracking

in QS. Advanced software can now analyze historical cost data, market trends, and project specifics to generate more accurate cost predictions. Machine learning algorithms further refine these estimates over time by learning from past project data and adjusting for various factors. Furthermore, IT-driven tools allow for real-time cost tracking and analysis during project execution. This real-time visibility into project finances empowers quantity surveyors to make timely adjustments, mitigating cost overruns and ensuring the project stays within budget.

The QS role has evolved into a bridge between various project stakeholders, and IT tools have bolstered this collaboration.

Having facilitated remote collaboration, the QS professionals can now work from various locations without compromising efficiency. Cloud-based platforms facilitate easy data sharing and collaboration among team members, even if they are in different geographical locations. Virtual meetings, video conferences, and shared digital workspaces have become standard

tools for communication, enabling QS professionals to engage with global teams and manage projects on a larger scale. The QS can even work from home!

IT integration has also enabled QS professionals to proactively identify and mitigate risks. Advanced risk assessment tools can analyse project data and identify potential pitfalls, enabling QS professionals to devise strategies to minimize the impact of uncertainties. By addressing risks early in the project lifecycle, QS professionals contribute to smoother project execution and successful outcomes.

It is important to note that while integrating IT can provide significant benefits to the quantity surveying field, human expertise remains crucial. Quantity Surveyors continue to play a central role in interpreting the AI-generated insights, making strategic decisions, and providing the human touch. Moreover, the successful implementation of IT requires proper training and collaboration among project stakeholders. QS professionals need to understand the workflows, software tools, and data exchange

protocols to effectively leverage the IT tools' capabilities for accurate and successful project execution.

Overall, the future of quantity surveyors will likely involve a combination of technological advancements, increased collaboration, adaptability to changing industry norms, and a commitment to maintaining high professional standards. Those who embrace these changes and continue to learn and grow will undoubtedly thrive and propel the industry toward greater sustainability and success. Building construction is a perpetual call for as long as humankind exists. There will never be a shut-down for the Quantity Surveyor.

Anyone considering a career in QS most certainly is doing it right!

Ravina Sok Appadu-Choyen,

PQS Reg. 099 &

Narveesh Rye Dauhajee,

PQS Reg. 098



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LEADING A BETTER WAY FOR QUANTITY SURVEYORS



Vaughan Harris¹

A leader is one who knows the way, goes the way and shows the way."

John C. Maxwell.

BIM is leading the way

The profession of quantity surveying has also been a part of and has played a significant role in the construction sector for around 150 years. Even so, the continuation and survival of the profession has been under question due to many views on the success of BIM and its ongoing technological advancements. The role of the quantity surveyor and estimator has, for the most part, been associated with quantity take-off, estimating and resource costing and analysis, preparation

of Bills of Quantities, monthly valuations, contractual claims, and final accounts.

While Building Information Modelling (BIM) is being gradually integrated into contracts and processes across the globe, the uptake and confidence are still low in many developing countries including Mauritius. Many estimators and contractors still need to gain more knowledge and confidence using BIM on their projects here in Mauritius.

Speaking to the Baron of BIM

"Sometimes living, teaching, and preaching BIM and benefits to many industry players can be taxing," says Vaughan Harris. "For the past eight years, Vaughan has spent years trying to demolish decades of accepted traditional construction norms to show that there is a true digital evolution that has started, and finally has had the chance to embrace it on numerous projects over the past few years. "The irony in BIM is that it balances all these objectives and promotes stakeholder engagement, throughout the project," according to Harris.

It's important to note that, although BIM is often referred to

in dimensional numbers that rise sequentially, they shouldn't be considered or referred to as stages of a project and must rather be seen as part of the project delivery process which is best managed through project management. The fifth dimension (5D estimating) in BIM is a misnomer to many inside and outside the industry – strangely it doesn't even exist in physics. It commonly refers to the addition of cost within specific elements within the model which in reality, does not happen even on the most stringent BIM projects.

BIM is NOT software.

One of the misconceptions about BIM is that it is referred to as software. BIM is a process, not a software program or a dimension. Certainly, software is at the technological core of BIM and the design intent, but that represents only about 10 per cent of the system. The other 90 per cent of BIM is about the process that allows all stakeholders to utilize and access secured project information to construct and operate a building. The technological base of BIM consists of 3D design, capturing certain data, and detailing of 2D drawings, but the most important value lies in information management.

² Vaughan Harris (aka "The Baron of BIM") has a wealth of experience working in the leadership business development arena within the African built environment. His shamelessly strong opinions and in-depth expertise and leadership in digital transformation has successfully led him to develop the BIM Foundation for Africa. Vaughan is known for his passion in promoting advancing construction transformation and advancing technologies in the construction industry. His high impact on the industry education sector has inspired and empowered thousands of young professionals and students in Africa to pursue their professional passion and move beyond the traditional way of working in the construction industry.

Facing change

Harris points to the advantages that BIM offers the client and the importance of having a member of the team who is a client facing who can strip the BIM process (as well as the rest of the construction process) of the inevitable jargon and explain the digital progress in layman's terms.

Cost estimation traditionally starts with quantification – a time-intensive process of tallying quantities from printed drawing sets or digital drawings. This process is prone to human error and tends to propagate inaccuracies that creep into the Bills of Quantities. Estimating applications have the capability of modelling data far in excess of what is needed at the elemental costing stage. Even though software allows us to generate take-offs, counts, and measurements directly from a model there is still human intervention required and certain voids can confuse decision-making and scenario planning.

"The client is worried about timing and cost," says Harris, "It is the cost manager's responsibility to represent the facts to the client – often in these terms – in a way that keeps him engaged and makes sense to them without bogging them down with BIM jargon."

Harris explains the BIM outcomes at the cost management phase as invaluable, with the drawings, data, and information as is saving the client time and money for the lifecycle of the building. The question is really whether the client sees the long-term benefit in explicitly demanding that the design and build team manage the "information" (drawings, schedules, specifications, bills of quantities, product data, etc.) using a digital process to a recognised industry standard.

CONCLUSION

"The truth is that the client is paying the team to do the work anyway, but do they value "data" over 'paper'?" asks Harris. "If so, then BIM is a far more effective way of producing and managing information, as well as sharing and communicating the cost information with others.

There are pockets of excellence in Mauritius, but the environment is still disconnected and lacks digital construction standards against which to measure the quality of the digital information being produced and allowing the transfer of data freely between project parties.

The Mauritian construction industry is somewhat immature in terms of other aspects that need reviewing for BIM Standards and measuring standards.

Even though several challenges in the construction industry may slow down the implementation of BIM, it's exciting to take note of what can be achieved going forward. Much-needed efficiencies can only be achieved through a fundamental shift in building standards and education.

"In Mauritius, we are accustomed to finding our own solutions to universal problems. This ingenuity is a cornerstone to its culture, but it is also vital that these solutions are suitable and accessible to all parties working on a project and understood by those who will eventually use and manage the asset" says Harris. If we can achieve this, the full potential of BIM will produce tangible benefits to the built environment in Mauritius.

Vaughan Harris



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STUDENT CORNER

EMPOWERING THE FUTURE OF QUANTITY SURVEYING: A JOURNEY OF INSIGHT AND CONTRIBUTION

In the ever-evolving world of construction and real estate, the importance of Professional Quantity Surveyors (PQS) is instrumental and cannot be overstated. PQS play a vital role in managing project costs, ensuring financial efficiency, and maintaining the integrity of developments. To achieve excellence in the field of quantity surveying, the role of mentors and the professional council is pivotal.

As a mentor in Quantity Surveying, I have had the privilege of imparting knowledge, sharing insights, and contributing to nurturing the next generation of experts. As the demand for skilled quantity surveyors continues to grow, educational institutions are essential in shaping the future workforce.

My 10-year journey till now has been filled with the joy of seeing students, as well as juniors, evolve into skilled professionals who contribute to the industry's growth. My commitment to fostering real-world skills and encouraging critical thinking is rooted in the belief that education is the bedrock upon which the profession stands. I believe in developing well-rounded professionals who are not only knowledgeable but also adaptable to the ever-changing industry.

Quantity Surveying is more than just theory; it is equally important to emphasise practical training and internships, ensuring that students gain hands-on experience before entering the workforce. The curriculum should extend beyond the classroom, involving case studies, on-site visits, and real-world projects to give students hands-on experience, thus, creating a bridge between education and practice.

In a dynamic industry, Quantity Surveyors must be adaptable and critical thinkers. Students shall be encouraged to think analytically, solve problems, and make informed decisions. This approach empowers them to tackle complex challenges and contribute positively to the profession.

To ensure that our rising stars are equipped with the most current knowledge, it is fundamental to forge strong ties with industry professionals. Regular interactions with practising PQS and construction companies have allowed me to incorporate industry insights into the learning programme, preparing students for real-world challenges.

While Academies play a crucial part in preparing the professionals of tomorrow, the Professional Quantity Surveyors' Council (the

Council) play an equally important role by setting high standards, promoting ethics, advocating for Quantity Surveyors, and making sure that the professionals are accredited. One of its major roles is promoting its importance and representing the interests of professionals in discussions with government bodies, construction firms, and other stakeholders. Additionally, the Council ensures that the Quantity Surveying profession thrives and meets the ever-evolving challenges of the construction world via mandating CPDs for practising Quantity Surveyors, which encourages lifelong learning and ensures that professionals stay up to date with the latest trends and technologies. With its strong industry support, the future of Quantity Surveying certainly looks bright and promising. And thus, as our industry continues to grow, these collaborations between academia and the professional world will, undoubtedly, be the driving force behind excellence in quantity surveying.

Ravina Sok Appadu-Choyen,

PQS Reg.099

QUANTITY SURVEYING: THE CHOSEN PATH



What truly attracted me to study Quantity Surveying was its remarkable versatility. I was on a quest for a career that would provide me with multifaceted opportunities, and Quantity Surveying seemed tailor-made for this aspiration. This field offers a wide array of career paths, from being a cost consultant for a reputable consultancy to working as a Quantity Surveyor for construction contractors. I was also captivated by the prospect of delving into the legal aspects of construction projects and how Quantity Surveyors play a vital role in ensuring project compliance and mitigating disputes.

One of the most significant motivations was the desire for a dynamic job that allowed for movement and practical experience. The idea of being confined to a desk and a single location didn't align with my vision of a fulfilling career. Quantity Surveying promised the excitement of going to construction sites, evaluating progress, and actively engaging with

the physical aspects of projects. The opportunity to immerse oneself in the actual construction process and witness the progress firsthand is immensely appealing.

Additionally, the connection to the construction industry runs deep in my family. My family's background in construction has fostered a profound appreciation for the field, and I felt compelled to continue this legacy while also making my mark in the industry. There is a sense of purpose and shared passion that fuels my journey.

In conclusion, my choice of Quantity Surveying is driven by the desire for a career that transcends the norms by offering a vibrant, diverse, and socially engaging work experience that resonates with my preferences and aspirations.

Yusuf Domun

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PRESS CONFERENCE 2020

CONSTRUCTION Les Quantity Surveyors illégaux seront sanctionnés

Le Professional Quantity Surveyors Council tire la sonnette d'alarme concernant certains individus qui exercent illégalement comme Quantity Surveyors. Satyren Deepchand, président du Professional Quantity Surveyors Council, précise que les fraudeurs risquent des sanctions. Il intervenait à l'issue d'une campagne de sensibilisation, mercredi.

Et d'ajouter : « Si ces personnes sont reconnues coupables par une cour de justice, elles auront à payer une amende ne dépassant pas Rs 100 000 et purger une peine d'emprisonnement pouvant aller jusqu'à deux ans, selon la (Quantity Surveyors Council Act) ». Et il a aussi fait ressortir que certaines personnes mal intentionnées prétendent être des Quantity Surveyors. Elles n'ont pas suivi les formations requises, car un 'degré' dans le domaine nécessite au moins trois années d'études à plein temps et elles ne possèdent pas le savoir-faire voulu. Le chiffre exact n'est pas encore connu pour l'heure. On est en train de faire une étude sur ce sujet », précise Keshav Padaruth, Registrar du Professional Quantity Surveyors Council.

Le Quantity Surveyor établit non seulement les estimations des coûts des travaux et les quantités de matériaux requis, prépare les documents d'appels d'offres, avec les spécifications mais il émet aussi les certificats de paiement tout en faisant le suivi des comptes. Selon nos interlocuteurs, les jeunes Mauriciens ont un vif intérêt à entreprendre des études dans ce domaine. Plusieurs facteurs expliquent cette tendance : la croissance du secteur de la construction, les salaires attractifs proposés dans le secteur privé et les perspectives au niveau international.

EN CHIFFRES

- 93 Quantity Surveyors exercent à Maurice.
- Durant ces cinq années, le nombre de Quantity Surveyors a augmenté de 50 %.



Les économistes en construction veulent mettre de l'ordre dans la profession

Figurant dans les professions réglementées, les Quantity Surveyors exercent une activité essentielle dans la gestion des coûts. Ils ont le devoir de garantir la transparence et la confiance dans le secteur de la construction.



«LE QUANTITY SURVEYOR EST CONSIDÉRÉ COMME L'ÉCONOMISTE DE L'INDUSTRIE DE LA CONSTRUCTION.»



V. Prasad (à gauche) et K. Padaruth (à droite), membres du Professional Quantity Surveyors Council.

Le secteur de la construction est en pleine croissance et après avoir été touché par la pandémie de Covid-19, il se redresse. Les économistes en construction, les Quantity Surveyors, ont le devoir de garantir la transparence et la confiance dans le secteur de la construction. Ils ont le devoir de garantir la transparence et la confiance dans le secteur de la construction. Ils ont le devoir de garantir la transparence et la confiance dans le secteur de la construction.

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LAUNCHING OF WEBSITE 2020



PRESENTATION DISCUSSION WITH THE MAURITIUS BANKERS' ASSOCIATION AND REPRESENTATIVES OF BANKS- 2022



FORUM DISCUSSIONS ON THE FUTURE OUTLOOK OF THE PQS AND CPD PRESENTATION ON CLAIMS AND DISPUTE RESOLUTION UNDER THE FIDIC 1999 (RB)' APRIL 2023



PRESS CONFERENCE 2023



Source : Mauritius Broadcasting Cooperation



Actualités
 88 - LE DÉFI ÉCONOMIE - MERCREDI 20 SEPTEMBRE 2023

PRAKASH SADEO, PRÉSIDENT DU PROFESSIONAL QUANTITY SURVEYOR COUNCIL :
« Il faut toujours faire appel à des Quantity Surveyors pour les projets de construction »



Le président du Professional Quantity Surveyor Council (PQSC), Prakash Sadeo, souhaite un amendement de la Professional Quantity Surveyor Act. Ce, afin de définir clairement ceux qui peuvent préparer les documents d'appel d'offres des projets de construction.

MARIO BOUTIA

Lors d'une récente conférence de presse, il a expliqué qu'il est essentiel de bien préparer les documents d'appel d'offres pour éviter que la clientèle ne soit exposée à des risques financiers et des litiges contractuels qui peuvent compromettre son projet de construction.

De plus, il attire l'attention sur le fait qu'en cas de litige entre le client et le constructeur, une cour de justice pourrait déclarer un tel rapport caduc.

Il s'est demandé « Comment certaines personnes qui n'ont pas les compétences reconnues en matière de gestion des coûts de construction, peuvent se risquer à estimer la progression des travaux de construction et même de soumettre un rapport aux banques pour qu'elles déboursent au fur et à mesure le montant d'un prêt immobilier ? »

À cet effet, il conseille aux Mauriciens de faire appel à un Quantity Surveyor pour leurs projets de construction. « Dans un contexte où beaucoup de Mauriciens ne parviennent pas à maîtriser les coûts de construction de leurs maisons ou autres projets immobiliers, les Quantity Surveyors souhaitent apporter leurs savoir-faire à travers des appels d'offres plus précis et une meilleure gestion des chantiers. Ce, afin d'éviter au public des dépenses superflues ou le dépassement des coûts », soutient-il.

Cela dit, il affirme que ce n'est pas nécessairement pour les gros projets immobiliers qu'on fait appel à un Quantity Surveyor. « Plus particuliers font appel à nous pour leur offrir des services adaptés à leurs besoins ».

Soulignons que le dixième anniversaire de la publication d'un magazine et la tenue d'un séminaire les enjeux concernant les professionnels de l'industrie de la construction.

Pour Prakash Sadeo, il est essentiel de bien préparer les documents d'appel d'offres pour éviter que la clientèle ne soit exposée à des risques financiers.

HUWEL PEO PHOTO
 LEICA QUAD CAMERA

« Avant tout projet de construction, adressez-vous à des professionnels du secteur ! »

Face au nombre trop élevé de litiges dans le secteur de la construction, les acteurs de l'industrie ont décidé de prendre les choses en main. Le Professional Quantity Surveyors Council (PQSC) a organisé durant la semaine une conférence de presse pour adresser les différents problèmes auxquels les citoyens doivent faire face en entreprenant un projet de construction. Veerprakash Sadeo, chairperson du PQSC et professionnel passionné du Bâtiment et travaux publics (BTP), nous en dit plus.

Pensez-vous que cela suffit ?

S'il existe des cas d'abus dans l'industrie, je dois dire que le secteur reste bien réglementé. Encore faudrait-il que les gens prennent de ces lois, pour ne pas se retrouver en Cour de justice dans un cas de litige, par exemple. Évidemment, tous les contracteurs ne sont pas malhonnêtes, mais des fois, une personne qui n'est pas familière avec les termes légaux ou techniques peut se retrouver dans une situation compliquée.

Lorsqu'un QS n'est pas sollicité dans un projet, quels sont les risques auxquels on s'expose ?

Un simple exemple, il peut arriver qu'un contracteur, non enregistré auprès du CIDB, prépare lui-même le budget et le contrat. Il y mettra des clauses dans son intérêt, certainement ! Si le QS, lui, par des clauses de pénalité, quel est ce qui l'inclura dans un contrat qu'il a lui-même rédigé ? Encore une fois, je ne généralise pas, car tous les contracteurs ne sont pas ainsi, mais nous avons affaire à beaucoup d'incidents de ce genre.

Il y a aussi un phénomène récurrent. Souvent, le contracteur demandera au client de payer une première somme exorbitante au commencement des travaux et au fil des mois, il en demandera moins. Bien sûr, la note à la fin des travaux sera la même, mais l'avancée des travaux pas forcément. Ce qui se passe, par exemple, c'est que le contracteur demande dès le départ 50% du budget convenu pour le projet, alors qu'il n'aura accompli que 25% des travaux ! Les clients remarqueront alors que le contracteur, une fois la première grosse partie du paiement reçue, commencera à négliger le

travail... Beaucoup se retrouvent alors avec une maison à moitié complétée, alors qu'une grosse somme d'argent a déjà été payée.

De plus, il y a des banques qui acceptent encore des rapports financiers de personnes non mandatées pour faire ce travail, et cela est un réel danger ! Nous lançons donc un appel aux institutions financières de veiller que les rapports financiers qu'ils reçoivent de clients demandant un prêt bancaire soient de QS reconnus par le PQSC. En cas de litige, le rapport rédigé par une personne non mandatée par la loi sera caduc et irrecevable en Cour de justice, et les conséquences seront terribles pour les clients.

En tant que QS, quels conseils donneriez-vous à une personne qui souhaiterait se lancer dans la construction d'une maison, compte tenu du contexte économique actuel ?

Adressez-vous à des professionnels, titulaires d'une certification des différentes entités régulatrices du secteur de la construction. Il suffit de consulter le site web du CIDB pour vérifier la liste des contracteurs, et le site web du PQSC pour avoir recours aux services d'un QS. Avec les prix fluctuants du marché de la construction, il est primordial de bien établir un budget pour une estimation précise des différents coûts de matériaux ainsi que de prestataires de service et de préparer un contrat avec, encore une fois, toutes les clauses pour se protéger des éventuels dangers.

Avec presque 30 ans de carrière en tant que QS, quel votre constat de l'industrie ?

Post-Covid, il faut savoir que les QS font beaucoup de valeur ajoutée avec du cost-cutting pour la majorité des grosses entreprises. C'est inévitable, car le prix de la construction a augmenté pour tous. Et pour faire ce type d'exercice



technique, il vous faut un professionnel. Il y a eu effectivement des hausses annuelles graduelles de 3 à 4% dans le secteur, mais depuis la pandémie, selon mon constat, le prix de construction a augmenté de 30 à 40%. Ce n'est donc pas facile de nos jours d'entamer les travaux dans le bâtiment, et c'est pour cela qu'il faut être encore plus informé de ce qui se passe pour mieux se protéger. Aussi, je pense qu'il serait temps que le pays forme lui-même ses professionnels du bâtiment. Il n'y a à ce jour pas de cours reconnus en Quantity Surveying par le PQSC dans nos institutions locales. Nous avons un effectif de 115 QS reconnus par le PQSC en ce moment, mais avec l'industrie locale qui évolue à vitesse grand V, il nous en faudra plus. Nous avons besoin de personnes qualifiées et passionnées par ce métier, qui reste dans le domaine du service.

Pour commencer, quel est le rôle du Quantity Surveyor (QS) dans l'industrie de la construction ?

Dans un projet de construction, il y a plusieurs étapes à suivre. Généralement, vous avez un architecte qui se chargera de la conception du projet, l'ingénieur sera sollicité pour la partie structurelle, et quant au Quantity Surveyor, il se charge de tous les aspects financiers et contractuels du projet. Son rôle, entre autres, est de préparer un budget précis et de veiller qu'il n'y ait pas des dépassements, et aussi assurer que tous les termes et conditions contractuels soient respectés pour un bon déroulement du projet du début à la fin. Et cela peut aller d'un gros projet immobilier à la construction d'une maison individuelle. Son rôle est donc essentiel dans tout ce processus, car il est le seul à pouvoir estimer, de manière impartiale et précise, le coût d'un projet et à rédiger un contrat, dans l'intérêt des deux parties, soit le contracteur et le client. L'objectif ultime du QS est de s'assurer que tous les coûts restent dans le budget initial du client, et d'éviter des coûts overruns, ce qui n'est malheureusement pas toujours le cas.

L'on a tendance à penser que les QS opèrent uniquement dans de grands projets. Pourquoi décidez-vous aujourd'hui de vous intéresser aux particuliers ?

Effectivement, à Maurice, comme ailleurs peut-être, on a la perception que les QS n'opèrent que dans les grands projets de BTP, immobiliers ou hôteliers, alors que non. Ce qu'il faut comprendre, c'est que pour les projets de cette envergure, il est impératif de solliciter un QS pour établir un budget en amont. Le contrat en bon sens, tout l'ex qui est minuté QS, qui a le savoir pour le faire. Particulier des travaux de sa maison, par exemple, les services d'un QS sont communs, dans les pratiques.

fortement recommandé d'avoir un QS qui vous conseille avant d'ériger une maison. Le rôle du QS reste le même dans les deux cas.

Nous avons aussi décidé de faire ce pas pour l'amour du métier et aussi car nous savons que le public fait face à trop de cas de litiges et d'abus dans le secteur. À Maurice, l'abus de construction d'une maison est révé de tous, et beaucoup trop de citoyens se retrouvent dans ces situations qui auraient pu être évitées s'ils avaient été mieux avisés ou informés, notamment au niveau du non-respect de contrat entre les différents partis.

Où, mais retenir les services à la fois d'un architecte, d'un ingénieur, contracteur et d'un QS pour la construction d'une maison... les charges ne s'alourdissent-elles pas pour le citoyen lambda ?

Cela peut effectivement être un frein, mais tout est relatif, et croyez-moi, les frais ne seront pas aussi élevés que vous pouvez le penser. Encore une fois, le rôle du QS est de s'adapter aux besoins et au budget du client, et notre but ultime est d'éviter des cas de overpayment sommes conditionnées ainsi, c'est notre travail de tout planifier pour éviter que l'on dépasse tel ou tel budget. Ce qui est malheureuse-ment le cas dans beaucoup de situations. D'ailleurs, j'insiste sur un point important : je ne fais pas la publicité des QS, loin de là, mais par expérience, nous savons que consulter un professionnel mandaté et reconnu par le PQSC (Professional Quantity Surveyors Council) pour préparer



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