

Queensland



PROFESSIONAL ENGINEERS ACT 1988

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Information about this reprint

This Act is reprinted as at 3 September 1997. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Queensland



PROFESSIONAL ENGINEERS ACT 1988

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PROFESSIONAL ENGINEERS ACT 1988

[as amended by all amendments that commenced on or before 3 September 1997]

An Act to consolidate and amend the law relating to the registration and practice of professional engineers and for related purposes

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Professional Engineers Act 1988*.

Interpretation

5. In this Act—

“**approved faculty of engineering**” means a faculty of engineering approved by the board.

“**approved school of engineering**” means a school of engineering approved by the board.

“**board**” means the Board of Professional Engineers of Queensland constituted under section 6.

“**chairperson**” means—

- (a) for the board—the chairperson of the board; and
- (b) for the disciplinary panel—the chairperson of the disciplinary panel.

“**disciplinary panel**” means the Professional Engineers Disciplinary Panel established under section 51A.

“**executive officer**”, in relation to a company, means a person by whatever name called and whether or not the person is a director of the

company, who is concerned, or takes part, in the management of the company.

“investigator” means a person authorised under section 45 to carry out an investigation on behalf of the board.

“member” means—

- (a) for the board—a member of the board; and
- (b) for the disciplinary panel—a member of the disciplinary panel.

“person” includes an unincorporated association or body of persons.

“presiding member” see section 51N.

“registered professional engineer” means a person who is for the time being registered as a professional engineer in accordance with part 4.

“registered professional engineering company” means a company that is for the time being registered as a registered professional engineering company in accordance with part 5.

“registered professional engineering unit” means a unit of registered professional engineers that is registered under part 6.

“registrar” means the registrar of the board appointed under section 15 and includes any person appointed to act as, or for the time being performing the duties of, the registrar.

“repealed Act” means the *Professional Engineers Act 1929*.

PART 2—THE BOARD

The Board of Professional Engineers of Queensland

6.(1) The Board of Professional Engineers of Queensland constituted under the repealed Act is hereby preserved, continued in existence and constituted under and for the purposes of this Act under the name the Board of Professional Engineers of Queensland.

(2) The board shall continue to be a body corporate with perpetual succession and a common seal and, subject to this Act, shall be capable in

law of suing and being sued, of compounding or proving in any court of competent jurisdiction all debts or sums of money due to it, and of acquiring, holding, alienating and otherwise dealing with property and of doing and suffering all such acts and things as bodies corporate may in law do and suffer.

(3) All courts and persons acting judicially shall take judicial notice of the common seal of the board and, until the contrary is proved, shall presume that it was duly affixed to any document on which it appears.

Members of board

7. The board shall consist of 6 members appointed by the Governor in Council by notification published in the gazette, as follows—

- (a) 3 members nominated by the Minister, 1 of whom shall be from an approved faculty of engineering or an approved school of engineering;
- (b) 3 members who shall be elected by the registered professional engineers of Queensland in the manner prescribed by the regulations.

Chairperson

8.(1) The Governor in Council shall appoint one of the members referred to in section 7(a) to be the chairperson of the board.

(2) In the event of the absence of the chairman from any meeting of the board, one of the other members referred to in section 7(a) shall act as chairperson of the board for the purpose of such meeting, and that other member while acting as chairperson shall have all the powers of the chairperson.

Failure to elect

9. If at any time the registered professional engineers refuse or fail to elect any or all of the members referred to in section 7(b), the Governor in Council may appoint any person or persons to be a member or members and any person or persons so appointed shall for all purposes be deemed to have been duly appointed as a member or members of the board.

Qualifications of members

10. A person shall not be appointed as a member unless—

- (a) if he or she is the person referred to in section 7(a) who is from an approved faculty of engineering or an approved school of engineering—the person’s qualifications are such that the person is eligible to be registered as a registered professional engineer; or
- (b) if the person is one of the other 5 members referred to in section 7—the person has been registered as a registered professional engineer for a continuous period of at least 2 years.

Business

11. Subject to this Act, the board shall meet at such times and conduct its business in such manner as is prescribed by the regulations or in so far as the manner is not so prescribed as the board thinks fit.

Duration of appointment

12.(1) The appointment of a member is for the term (not longer than 2 years) specified in the gazette notice of the appointment.

(2) Subsection (1) does not apply to a member who holds office at the commencement of this section, and such a member holds office for the term of 2 years from that commencement.

Terms of appointment

12A.(1) A member holds office on a part-time basis.

(2) A member is to be paid the remuneration and allowances determined by the Governor in Council.

(3) A member holds office on terms not provided in this Act as are determined by the Governor in Council.

Vacancies

13. The office of a member becomes vacant if the member—

- (a) dies; or
- (b) resigns office by written notice given to the Minister; or
- (c) is removed from office by the Governor in Council pursuant to section 14.

Removal by Governor in Council

14.(1) The Governor in Council may remove any member if the member—

- (a) refuses or fails to act as a member; or
- (b) is absent without prior leave granted by the board from more than 3 consecutive meetings of the board of which the member has received due notice; or
- (c) becomes bankrupt or takes advantage of the laws in force for the time being relating to bankrupt or insolvent debtors; or
- (d) becomes incapable of performing his or her duties because of mental illness; or
- (e) is not qualified or registered as required by section 10 or ceases to be so qualified or registered.

(2) For the purposes of subsection (1)(b), a member shall be deemed to be present at a meeting if the member attends at the time and place appointed for the meeting notwithstanding that, by reason that no quorum is present, no meeting is actually held on that day and the registrar shall record the name of any member who so attends.

(3) If the office of a member becomes vacant during the member's term of office for a reason mentioned in section 13, the Governor in Council may appoint a person to that office who shall hold office for the balance of the term of appointment of the member's predecessor in office.

(4) If at any time a member is, from illness, absence or other proper cause—

- (a) prevented from attending a meeting of the board, the Minister may appoint a person to act in the place of that member during the member's absence; or
- (b) likely to be absent from meetings of the board for more than

4 months, the Governor in Council may appoint a person to act in the place of that member during the member's absence.

(5) A person appointed to act in the place of a member pursuant to subsection (4) during the term of appointment, shall have all the powers of and be deemed to be a member.

Registrar and other officers

15.(1) The Governor in Council may appoint a registrar of the board and fix the remuneration to be paid for the registrar's services.

(1A) In fixing such remuneration the Governor in Council shall have regard to any recommendation made in that respect by the board.

(2) The board may appoint such other officers as it thinks necessary to give effect to this Act, and may pay such other officers such remuneration as it thinks fit.

(3) All officers so appointed shall hold office during the pleasure of the board.

Funds of board

16.(1) All moneys received by the board or by the registrar on behalf of the board including penalties imposed under section 60(1) and penalties imposed for offences against this Act, shall be paid into the funds of the board.

(2) The remuneration of the registrar and other officers appointed under this Act, and all other expenses of and incidental to the administration of this Act, shall be paid by the board out of its funds.

(3) Any surplus moneys of the board which are not required for the purposes of subsection (2) may be expended by the board for the purposes of the advancement of professional engineering in such manner as it may determine.

Board is statutory body

16A.(1) Under the *Statutory Bodies Financial Arrangements Act 1982*, the board is a statutory body.

(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the board's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

PART 3—REGISTERS

Registers to be kept

17.(1) The board must keep—

- (a) a register of professional engineers; and
- (b) a register of professional engineering companies; and
- (c) a register of professional engineering units.

(2) The register of professional engineers must contain—

- (a) the full name and address of each registered professional engineer; and
- (b) the division of engineering to which each registration relates; and
- (c) such other particulars as are prescribed by regulation or that the board considers necessary.

(3) The register of professional engineering companies must contain—

- (a) the full name and address of each registered professional engineering company; and
- (b) such other particulars as are prescribed by regulation or that the board considers necessary.

(4) The register of professional engineering units must contain—

- (a) the full name and address of each registered professional engineering unit; and
- (b) the person who is to be in charge of the unit; and
- (c) each person who is to be in charge of the unit during the absence of the person mentioned in paragraph (b); and

- (d) such other particulars as are prescribed by regulation or that the board considers necessary.

Publication of roll

17A. The board must, as soon as practicable after—

- (a) 1 January in each year—publish in the gazette a copy of the register mentioned in section 17(1)(a) as at 1 January in that year; and
- (b) 1 April in each year—publish in the gazette a copy of the registers mentioned in section 17(1)(b) and (c) as at 1 April in that year.

PART 4—REGISTERED PROFESSIONAL ENGINEERS

Qualifications for registration

18. Subject to this part, the board may register any person as a registered professional engineer if the person satisfies the board that the person is of good fame and character, and that the person—

- (a) holds—
 - (i) a degree in engineering granted by an approved school of engineering or an approved faculty of engineering; or
 - (ii) a qualification in engineering granted by a tertiary education institution which entitles the person to be admitted to the Institution of Engineers, Australia, as a graduate member;

and that the person has been engaged for not less than 5 years since obtaining the degree or qualification in gaining experience of engineering and that the person possesses the knowledge and experience required to practise as a registered professional engineer; or

- (b) has been engaged during a period of not less than 5 years in acquiring, in a manner considered satisfactory by the board,

professional knowledge in engineering, and a further 7 years in gaining experience of engineering and that the person possesses the knowledge and experience required to practise as a registered professional engineer.

Divisions of professional engineering

19. A registered professional engineer shall be registered in 1 or more of the divisions of professional engineering that are prescribed by the regulations.

Applications for registration

20.(1) An application for registration under this part is to be made to the board in the form approved by the board.

(2) The application must be accompanied by the prescribed fee.

Entitlement

21. A person registered as a registered professional engineer shall be entitled in connection with the person's practice as a registered professional engineer to use or publish the words 'Registered Professional Engineer of Queensland' or the abbreviation 'R.P.E.Q.'.

Certificate of registration

22.(1) If the board registers a professional engineer under this part, the board must issue a certificate of registration.

(2) The board must issue to a registered professional engineer a practising certificate for each year after the first year of registration on payment of the roll fee for the year.

(3) The certificate of registration and the practising certificate are to be in a form approved by the board.

Registered professional engineers' roll fee

23.(1) Subject to subsection (2), every person who is registered as a

registered professional engineer, upon registration and in respect of the year of registration, shall pay to the registrar the roll fee for that year.

(2) A person who is registered as a registered professional engineer subsequent to 1 October in any year, upon registration, in addition to the roll fee for the year of registration, shall pay to the registrar the roll fee for the year commencing on 1 January next following the date of registration of that person.

(3) Every registered professional engineer, on or before 1 October in each year, shall pay to the registrar the roll fee for the year commencing on 1 January next following.

(4) If a registered professional engineer fails to pay the roll fee in accordance with subsection (3), the registrar forthwith shall notify the registered professional engineer by certified mail addressed to him or her at the address appearing in the register that, if the fee is not paid to the registrar on or before 31 December next following, the board may remove the registered professional engineer's name from the register.

(4A) If a registered professional engineer fails to pay the fee on or before 31 December next following, the board may remove the registered professional engineer's name from the register, such removal to take effect on and from the expiration of that date, and notification of the removal shall be published in the gazette as soon as is practicable thereafter.

(5) The roll fees referred to in this section shall be such amounts as are prescribed by the regulations.

Removal from register of registered professional engineers

26.(1) The board, in addition to the power given to it under section 23(4A), may remove from the register the name of any person who—

- (a) has died; or
- (b) applies to the board in writing to have his or her name removed from the register; or
- (c) owing to mental illness, is not capable of practising as a registered professional engineer.

(2) If the board removes the name of a person from the register pursuant to subsection (1)(a) or (b), it shall cause notice of the removal to be

published in the gazette.

(3) Before removing the name of a person from the register pursuant to subsection (1)(c), the board shall give the person reasonable opportunity to appear before it, in person or by a legal practitioner or that person's duly authorised agent, to contest the proposed removal of the person's name from the register.

(4) If the board removes the name of a person from the register pursuant to subsection (1)(c), it shall cause, at the expiration of a period of 28 days after the date on which notification of the removal is given to the person by the board, notice of the removal to be published in the gazette unless, within that period, an appeal is instituted against the removal.

Return of certificate

27.(1) A person whose name has been removed from the register pursuant to section 23(4A), 26(1) or 60(2) shall surrender, within 14 days after publication in the gazette of the removal, to the board any certificate issued to the person under this Act or the repealed Act.

Maximum penalty—20 penalty units.

(2) The removal of the name of a person from the register shall be effectual notwithstanding failure to surrender any certificate.

Restoration

28.(1) The board may, on payment of the prescribed fee, restore to the register of professional engineers the name of a professional engineer that has been removed from the register.

(2) The board must restore the name of a professional engineer to the register if directed to do so by the District Court.

Continuation of name of deceased engineer

29.(1) Notwithstanding section 26(1)(a), upon the death of a registered professional engineer, the board may permit the registered professional engineer's name to remain upon the register, and may authorise his or her executor, administrator, or trustee to carry on in the name of the deceased

engineer the professional engineering practice formerly carried on by the registered professional engineer: Provided that the professional engineering practice is carried on under the supervision of a registered professional engineer approved by the board.

(2) Any such approval, in the first instance, shall be limited to a period not exceeding 12 months.

PART 5—REGISTERED PROFESSIONAL ENGINEERING COMPANIES

Conditions of registration of companies

30. Subject to this part, the board may register any company as a registered professional engineering company if—

- (a) it is duly registered as a company in Australia;
- (b) the person having the supervision and management of the business of the company at each of its places of business in Queensland is a registered professional engineer and is resident in Queensland;
- (c) its articles of association provide that at all times—
 - (i) the principal executive officer of the company is to be a registered professional engineer and a director of the company;
 - (ii) where the company has only 2 directors, each is to be a registered professional engineer or one is to be a registered professional engineer and the other is to be—
 - (A) a person who holds a professional qualification satisfactory to the board; or
 - (B) a relative of the registered professional engineer who is a relative of a class of person prescribed by the regulations; or
 - (C) a public accountant or legal practitioner acting for the

company;

- (iii) where the company has more than 2 directors, at least three-fifths of the directors are to be registered professional engineers and the remaining directors are to hold a professional qualification satisfactory to the board;
 - (iv) at least three-fifths of the total voting rights of all directors of the company entitled to vote at a meeting of directors of the company are to be held by registered professional engineers;
 - (v) at least three-fifths of the total voting rights of all persons entitled to vote at a general meeting of members of the company are to be held by registered professional engineers;
- (d) the company is the holder of a current professional indemnity insurance policy from an insurer satisfactory to the board and in such sum as is prescribed by the regulations.

Applications for registration

31.(1) An application for registration under this part is to be made to the board in the form approved by the board.

(2) The application must be accompanied by the prescribed fee.

Entitlement

32. A registered professional engineering company shall be entitled in connection with its practice as a professional engineering company to use or publish the words 'Registered Professional Engineering Company of Queensland' or the abbreviation 'R.P.E.C.Q.'.

Certificate of registration

33.(1) If the board registers a professional engineering company under this part, the board must issue a certificate of registration.

(2) The certificate is to be in a form approved by the board.

(3) Registration takes effect on the day the certificate is issued and continues in force until the following 31 March.

Renewal of certificate of registration

34.(1) Every registered professional engineering company shall on or before the last day of February in each year, apply to the board for renewal of its certificate of registration as a registered professional engineering company.

(2) Each application—

- (a) shall be made in the form prescribed by the regulations;
- (b) shall be supported by such evidence as the board may require;
- (c) shall be accompanied by the fee prescribed by the regulations and by a certificate or other evidence of renewal of the insurance policy referred to in section 30(d).

(3) The board may grant a renewal of a certificate of registration for a period of 12 months expiring on 31 March in any year.

(4) If a registered professional engineering company fails to apply for renewal of its certificate of registration in any year in accordance with subsection (1), the registrar shall forthwith notify the company by certified mail addressed to the company at the address appearing in the register that, if an application is not made to the board on or before 31 March next following, the board may remove its name from the register.

(5) If a registered professional engineering company fails to apply for renewal of its certificate of registration on or before 31 March next following, the board may remove its name from the register, such removal to take effect on and from the expiration of that date, and notification of the removal shall be published in the gazette as soon as is practicable thereafter.

Returns by registered professional engineering companies

36.(1) Every registered professional engineering company, within 1 month after a person becomes or ceases to be a director, principal executive officer or person having the supervision and management of the business of the company at each of its places of business in Queensland, shall lodge with the registrar a notice stating that fact and, in the case of a person who becomes any such director, officer or person, the person's name and residential address and whether the person is a registered professional engineer.

- (2) A registered professional engineering company must not—
- (a) fail to comply with subsection (1); or
 - (b) lodge a notice under subsection (1) that is false or misleading in any respect.

Maximum penalty—40 penalty units.

Removal from register of registered professional engineering companies

38.(1) The board, in addition to the power given to it under section 34(5), may remove from the register of registered professional engineering companies the name of any company which—

- (a) applies to the board in writing to have its name removed from the register;
- (b) is refused renewal of registration.

(2) If the board removes the name of a company from the register pursuant to subsection (1)(a), it shall cause notice of the removal to be published in the gazette.

(3) Before removing the name of a company from the register pursuant to subsection (1)(b), the board shall give the company reasonable opportunity to appear before it, by an executive officer of the company or a legal practitioner or by its duly authorised agent, to contest the proposed removal of its name from the register.

(4) If the board removes the name of a company pursuant to subsection (1)(b), it shall cause, at the expiration of a period of 28 days after the date on which notification of the removal is given to the company by the board, notice of the removal to be published in the gazette unless, within that period, an appeal is instituted against the decision.

(5) If such an appeal is not proceeded with or is dismissed the board shall cause notice of the removal to be published in the gazette.

Return of certificate

39.(1) Any company the name of which has been removed from the register pursuant to section 34(5), 38(1) or 60(2) shall surrender, within 14

days after publication in the gazette of the removal, to the board any certificate issued to it under this Act or the repealed Act.

Maximum penalty—20 penalty units.

(2) The removal of the name of any company from the register shall be effectual notwithstanding failure to surrender any certificate.

Restoration

40.(1) The board may, on payment of the prescribed fee, restore to the register of professional engineering companies the name of a professional engineering company that has been removed from the register.

(2) The board must restore the name of a professional engineering company to the register if directed to do so by the District Court.

PART 6—REGISTERED PROFESSIONAL ENGINEERING UNITS

Board may register professional engineering units

40A. The board may register as a professional engineering unit a part of a corporation that provides professional engineering services.

Conditions of registration

40B. The board may register a part of a corporation as a professional engineering unit only if—

- (a) the corporation is incorporated in Australia; and
- (b) the person in charge, on behalf of the corporation, of the corporation's professional engineering services at each office of the corporation in Queensland where the service is provided—
 - (i) is a registered professional engineer; and
 - (ii) is authorised by the corporation to have responsibility for ensuring that the operations of the unit are conducted in a

way that complies with this Act; and

- (c) the corporation takes out and maintains the prescribed insurance cover.

Applications for registration

40C.(1) An application for registration under this part is to be made in the form approved by the board.

- (2) The application must be accompanied by the prescribed fee.

Certificate of registration

40D.(1) If the board registers a professional engineering unit under this part, the board must issue a certificate of registration.

- (2) The certificate—

- (a) must be in a form approved by the board; and
- (b) must state the name of—
 - (i) the unit; and
 - (ii) the corporation of which the unit is part.

(3) Registration takes effect on the day the certificate is issued and continues in force until the following 31 March.

Renewal of registration

40E.(1) A corporation that has a registered professional engineering unit must apply for renewal of the unit's registration not later than 1 month before the registration expires.

- (2) The application must—

- (a) be made in the form approved by the board; and
- (b) be accompanied by the prescribed fee.

- (3) The board may renew or refuse to renew the registration.

(4) The board may refuse to renew a unit's registration under subsection (3) only if the corporation is given a reasonable opportunity to

show cause why renewal of the unit's registration should not be refused.

(5) If the corporation does not apply for renewal of the unit's registration within the time mentioned in subsection (1), the registrar must immediately notify the corporation that, if an application for renewal of the unit's registration is not made on or before 31 March, the board may remove the unit's name from the register.

Removal from register

40F.(1) If a registered professional engineering unit's registration is not renewed, the board may remove the unit's name from the register of professional engineering units.

(2) The board must remove a registered professional engineering unit's name from the register of professional engineering units—

- (a) on the written application of the corporation of which the unit is part; or
- (b) if renewal of the unit's registration is refused.

(3) If the board acts under—

- (a) subsection (1) or (2)(a)—the board must give notice of the removal in the gazette not later than 28 days after the removal; or
- (b) subsection (2)(b)—the board must give notice of the removal in the gazette not sooner than 28 days after the removal.

(4) If an appeal against a refusal to renew a unit's registration is lodged, the board must not give notice under subsection (3)(b) until the appeal is finally determined.

Return of certificate

40G. A corporation must, within 14 days after publication of a notice under section 40F, return the certificate of registration of its professional engineering unit to the board.

Maximum penalty—20 penalty units.

Restoration

40H.(1) The board may, on payment of the prescribed fee, restore to the register of professional engineering units the name of a professional engineering unit that has been removed from the register.

(2) The board must restore the name of a professional engineering unit to the register if directed to do so by the District Court.

Change in person in charge of registered professional engineering unit

40I.(1) If a person ceases to be in charge, or to be entitled to be in charge, on behalf of a corporation, for the corporation's registered professional engineering unit, the corporation must, within 28 days, notify the registrar of that fact and of the name of the registered professional engineer who is in charge of the unit.

(2) The corporation must not lodge a notice under subsection (1) that is false or misleading in any respect.

Maximum penalty—40 penalty units.

PART 7—PROHIBITED PRACTICES**Prohibited practices**

41.(1) A person who is not—

- (a) a registered professional engineer; or
- (b) a registered professional engineering company; or
- (c) a corporation whose professional engineering unit is registered under part 6; or
- (d) an unincorporated association or body all of whose members are registered professional engineers;

must not undertake professional engineering services for fee or reward.

Maximum penalty—40 penalty units.

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(2) Subsection (1) does not apply to an individual who is—

- (a) an officer or employee of the public service; or
- (b) an officer or employee of a statutory corporation or another person;

if—

- (c) the individual undertakes professional engineering services in the performance of duties as an officer or employee; and
- (d) does so under the supervision of a registered professional engineer.

(3) A person (other than a person mentioned in subsection (1)(a) to (d)) must not—

- (a) take or use, or by reference adopt, the name, title, word, symbol or description of registered professional engineer (either alone or in combination with another name, title, word, symbol or description); or
- (b) advertise that the person is willing to undertake professional engineering services or is skilled in professional engineering; or
- (c) advertise or hold himself, herself or itself out as being a consultant with respect to professional engineering or a division of professional engineering.

Maximum penalty—40 penalty units.

(4) A person who—

- (a) in any way pretends to be, or to possess the status of, a consultant; or
- (b) takes or uses, or by inference adopts, the name, title, word, symbol or description of a consultant (either alone or in combination with another name, title, word, symbol or description); or
- (c) takes or uses, or by inference adopts, another name, title or description that implies, is calculated to imply, or is likely to imply, that the person is a consultant;

with respect to professional engineering or a division of professional

engineering, is taken to hold himself, herself or itself out as being a consultant with respect to professional engineering or a division of professional engineering.

(5) A person (other than a person mentioned in subsection (1)(a), (b) or (c)) must not have attached to, or exhibited at, the person's place of business or residence, or otherwise use, a name, title, word, symbol or description that (either alone or in combination with another name, title, word, symbol or description) that implies, is calculated to imply, or is likely to imply, the person is a person mentioned in subsection (1)(a), (b) or (c).

Maximum penalty—40 penalty units.

(6) A person (other than a registered professional engineer) must not—

- (a) advertise or hold himself, herself or itself out as being a registered professional engineer; or
- (b) allow another person to advertise or hold the person out as being a registered professional engineer.

Maximum penalty—40 penalty units.

Registered name to be used

42. A registered professional engineering company or professional engineering unit must not take, use or adopt, in connection with professional engineering, or the practice of professional engineering, a name other than the name shown in the company's or unit's certificate of registration.

Maximum penalty—40 penalty units.

PART 8—COMPLAINTS AND PROCEEDINGS

Division 1—Complaints and investigations

Interpretation

43. In this part—

“**client**” of a registered person means a person for whom the registered person agrees to perform professional engineering services (whether or not for fee or reward).

“**company**” means a registered professional engineering company.

“**registered person**” means—

- (a) a registered professional engineer; or
- (b) a registered professional engineering company; or
- (c) a registered professional engineering unit.

Complaints

44. A person who is aggrieved by the conduct of a registered person may complain in writing to the board.

Board may authorise investigation

45.(1) The board may—

- (a) on a complaint made under section 44 or of its own initiative, authorise a person who is not a member to carry out an investigation of conduct of a registered person on behalf of the board; or
- (b) if it suspects on reasonable grounds that a registered person has contravened a provision of this Act—authorise a person who is not a member to carry out an investigation in relation to the suspected contravention on behalf of the board.

(2) The board must not authorise the investigation of a complaint that is, in its opinion, frivolous or vexatious.

(3) The board must notify the registered person against whom the complaint is made of the board's decision to authorise an investigation.

(4) The investigator must—

- (a) give to the registered person who is the subject of the complaint full particulars of the complaint; and
- (b) provide the registered person with an opportunity during the course of the investigation to make a formal submission to the investigator in relation to the complaint.

(5) The investigator must give—

- (a) to the board—a written report, in reasonable detail, of findings, and opinions based on the findings, in relation to the complaint; and
- (b) to the registered person who is the subject of the complaint—a written outline of the report and general particulars of findings.

Powers of investigator

46.(1) If it is reasonably necessary for the purposes of an investigation, an investigator may by written notice given to a person, require the person—

- (a) to attend before the investigator, at a reasonable time and place specified in the notice, and there and then answer any questions; and
- (b) to produce to the investigator, at a reasonable time and place specified in the notice, a document or thing in the person's custody or under the person's control.

(2) If the document or thing is produced to the investigator, the investigator may—

- (a) examine the document or thing; and
- (b) make copies of, or take extracts from, the document or photograph the thing; and
- (c) if the investigator reasonably considers it necessary to do so—keep the document or thing—

- (i) for 60 days; or
- (ii) if a prosecution for an offence against this Act of which the document or thing may afford evidence is instituted within that period—until the completion of the proceeding for the offence and any appeal in relation to the proceeding.

(3) While the investigator has possession of the document, the investigator must allow it to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the investigator's possession.

(4) A person who, without reasonable excuse, fails to comply with a requirement under subsection (1) to the extent that the person is capable of doing so commits an offence.

Maximum penalty—20 penalty units.

(5) It is a reasonable excuse for a person to fail to comply with a requirement under subsection (1) if complying with the requirement might tend to incriminate the person.

Entry and search—evidence of offences

47.(1) If an investigator has reasonable grounds for suspecting that there is in a place a particular thing (the “**evidence**”) that may afford evidence of the commission of an offence against this Act, the investigator may—

- (a) enter the place; and
- (b) exercise the powers mentioned in section 48.

(2) If the investigator enters the place and finds the evidence—

- (a) the investigator may seize the evidence; and
- (b) the investigator may keep the evidence—
 - (i) for 6 months; or
 - (ii) if a prosecution for an offence against this Act in the commission of which the evidence may have been used or otherwise involved is instituted within that period—until the completion of the proceeding for the offence and any appeal in relation to the proceeding; and

- (c) if the evidence is a document—while the investigator has possession of the document, the investigator—
 - (i) may take extracts from and make copies of the document; and
 - (ii) must allow the document to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the investigator’s possession.

(3) The investigator may enter the place or exercise a power under subsection (1) only if—

- (a) the occupier of the place consents to the entry or exercise of the power; or
- (b) a warrant under section 49 that was issued in relation to the evidence authorises the entry or exercise of the power.

(4) If, while searching the place under subsection (1) under a warrant under section 49, the investigator finds a thing (the “**secondary evidence**”) that is not the evidence, then, subject to subsection (5), subsection (2) applies to the secondary evidence as if it were the evidence.

(5) Subsection (4) applies only if the investigator believes, on reasonable grounds, that—

- (a) the secondary evidence will afford evidence of the commission of—
 - (i) the offence mentioned in subsection (1); or
 - (ii) another offence against this Act; and
- (b) it is necessary to seize the secondary evidence to prevent—
 - (i) its concealment, loss or destruction; or
 - (ii) its use in committing, continuing or repeating either of the offences.

General powers of investigator in relation to places

48.(1) An investigator who enters a place under section 47 may exercise any of the following powers—

- (a) search any part of the place;

- (b) inspect, examine, photograph or film anything in the place;
- (c) take extracts from, and make copies of, any documents in the place;
- (d) take into the place persons, equipment and materials that the investigator reasonably requires for the purpose of exercising any powers in relation to the place;
- (e) require—
 - (i) the occupier of the place; or
 - (ii) any person in the place;to give to the investigator reasonable assistance in relation to the exercise of the powers mentioned in paragraphs (a) to (d).

(2) A person must not, without reasonable excuse, fail to comply with a requirement under subsection (1)(e).

Maximum penalty—20 penalty units.

(3) It is a reasonable excuse for a person to fail—

- (a) to answer a question; or
- (b) to produce a document;

if answering the question, or producing the document, might tend to incriminate the person.

(4) An investigator who, in the exercise of a power under this part, seizes or damages a thing must, as soon as practicable, give written notice of the seizure or damage.

(5) The notice must be given to—

- (a) for a seizure—the person from whom the thing was seized; or
- (b) for damage—the person who appears to the investigator to be the owner of the thing.

(6) A person who incurs any loss or expense—

- (a) because of the exercise or purported exercise of a power under this part; or
- (b) in complying with a requirement made of the person under this part;

may claim compensation from the board.

(7) A payment of compensation may be claimed and ordered—

- (a) in a proceeding for compensation brought in a court of competent jurisdiction for the recovery of compensation; or
- (b) during a proceeding for an offence against this Act brought against the person by whom the claim is made.

(8) A court may order the payment of compensation for the loss or expense only if it is satisfied that it is just to do so in the circumstances of the particular case.

Offence related warrants

49.(1) An investigator may apply to a magistrate for a warrant under this section in relation to a particular place.

(2) Subject to subsection (3), the magistrate may issue the warrant if the magistrate is satisfied, by information on oath, that there are reasonable grounds for suspecting that there is, or there may be within the next 7 days, in the place a particular thing that may afford evidence of the commission of an offence against the Act.

(3) If the magistrate requires further information about the grounds on which the issue of the warrant is being sought, the magistrate may issue the warrant only if the investigator or some other person has given the information to the magistrate in the form (either orally or by affidavit) that the magistrate requires.

(4) The warrant must—

- (a) authorise the investigator, with such assistance and by such force as is necessary and reasonable—
 - (i) to enter the place; and
 - (ii) to exercise the powers set out in section 48; and
 - (iii) to seize the evidence; and
- (b) state whether the entry is authorised to be made—
 - (i) at any time of the day or night; or
 - (ii) during specified hours of the day or night; and

- (c) specify the day (not more than 14 days after the issue of the warrant) on which the warrant ceases to have effect; and
- (d) state the purpose for which the warrant is issued.

Charge of offence may be laid

50. If, after considering an investigator's report, the board considers that a prima facie case of an offence against section 41 has been made out against a person, the board may bring a prosecution for the offence against the person.

Disciplinary charge may be laid and referred to disciplinary panel

51.(1) This section applies if, after considering an investigator's report, the board considers a prima facie case for a disciplinary charge to be laid is made out against a registered person.

(1A) The board may lay a disciplinary charge against the registered person on the ground—

- (a) the person has been convicted (whether in Queensland or elsewhere) of—
 - (i) an indictable offence; or
 - (ii) another offence;that renders the person unfit to be a registered person; or
- (b) the person fraudulently obtained registration under this Act; or
- (c) the person is not a fit and proper person to be a registered person; or
- (d) the person is guilty of misconduct in a professional respect; or
- (e) disciplinary action is being, or has been taken, against the person as—
 - (i) executive officer of a registered professional engineering company; or
 - (ii) a person who is in charge of a registered professional engineering unit; or

- (f) the person no longer fulfils the requirements for registration under the Act; or
- (g) if the person is an individual—the person’s membership of an institution or society established for the purpose of promoting the study and practice of the profession of engineering has been suspended or cancelled for reasons other than the non-payment of fees.

(2) A copy of the charge is to be given to the person charged.

(3) The board must also refer a copy of the charge to the disciplinary panel for hearing and determination.

(4) In this section—

“commission” means a written or other agreement by which a registered person undertakes to provide professional engineering services for a client.

“misconduct in a professional respect” includes—

- (a) performing, in connection with a commission, work that is outside the person’s area of professional competence; and
- (b) attempting to perform, in connection with a commission, work that is outside the person’s area of professional competence; and
- (c) allowing a person who is not a partner of a registered person to practise in the registered person’s name; and
- (d) intentionally doing an act or making an omission, in connection with a commission, that prejudices a client’s interests or rights under the commission; and
- (e) directly or indirectly—
 - (i) giving or offering to a person; or
 - (ii) agreeing to give or offer to a person;
valuable consideration as a reward or inducement for the person securing or attempting to secure a commission for the registered person; and
- (f) undertaking or agreeing to undertake a commission in connection with a matter the subject of a dispute, if the fee or reward for the

commission depends in any way on whether or not the dispute is resolved in favour of the client; and

- (g) providing professional engineering services in connection with a utility, structure, building, machine, equipment, process, work or project of which the unit is the constructor, without the client's written consent.

Division 2—Disciplinary charges and proceedings

Subdivision 1—Establishment and membership of disciplinary panel

Disciplinary panel

51A. A panel called the 'Professional Engineers Disciplinary Panel' is established.

Disciplinary panel's functions

51B. The functions of the disciplinary panel are—

- (a) to hear any disciplinary charge referred to it under this Act; and
- (b) for disciplinary charges, to make findings whether or not a registered person is guilty of a disciplinary charge; and
- (c) to take appropriate action under section 60;¹ and
- (d) to keep a record of—
 - (i) its proceedings; and
 - (ii) its decision on each proceeding and the reasons for the decision; and
 - (iii) the documents produced to it in relation to each disciplinary charge referred to it.

¹ Section 60 (Disciplinary panel may order cancellation of registration, etc.)

- (e) to give to the board a report of its work and activities for each financial year; and
- (f) to carry out the other functions conferred on it by this Act.

Disciplinary panel's powers

51C.(1) The disciplinary panel has power to do all things necessary or convenient to be done for the performance of its functions.

(2) Without limiting subsection (1), the disciplinary panel has the powers conferred on it by this Act.

Membership of disciplinary panel

51D.(1) The disciplinary panel is to consist of a chairperson and at least 2 other members.

(2) A person is eligible for appointment as chairperson only if the person is a retired judge of an Australian court or a lawyer of at least 5 years standing.

(3) A person is eligible for appointment as another member only if the person is—

- (a) a retired judge of an Australian court or a lawyer of at least 5 years standing; or
- (b) a registered professional engineer of at least 5 years standing.

(4) At least 2 of the other members must have the qualification mentioned in subsection (3)(b).

Appointment of members

51E.(1) The members of the disciplinary panel are to be appointed by the Governor in Council.

(2) The members must be appointed under this Act and not the *Public Service Act 1996*.

Restriction on appointment

51F. A member of the board may not be appointed a member of the disciplinary panel.

Duration of appointment

51G. The appointment of a member of the disciplinary panel is for the term (not longer than 7 years) stated in the member's instrument of appointment.

Conditions of appointment

51H.(1) A member of the disciplinary panel holds office on a part-time basis.

(2) A member is entitled to the remuneration and allowances that may be determined by the Governor in Council.

(3) A member holds office on conditions not provided by this Act that are decided by the Governor in Council.

Member ceasing as a member

51I. A member of the disciplinary panel stops being a member if—

- (a) the member resigns by signed notice given to the Minister; or
- (b) the member ceases to be qualified to be appointed as a member;
or
- (c) the member's appointment is ended by the Governor in Council.

Ending of appointment

51J. The Governor in Council may end the appointment of a member of the disciplinary panel if the member—

- (a) engages in misbehaviour; or
- (b) refuses or fails to act as a member; or
- (c) becomes incapable of performing the duties of a member because

of physical or mental incapacity; or

- (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit.

Disclosure of interests

51K.(1) If a member of the disciplinary panel is, or is to be, a member of the panel as constituted for a proceeding and the member has or acquires an interest (whether financial or otherwise) that could conflict with the proper performance of the member's functions in relation to the proceeding—

- (a) the member must disclose the interest to the parties to the proceeding; and
- (b) except with the consent of all parties to the proceeding—the member must not take part in the proceeding or exercise any powers in relation to the proceeding.

(2) Subsections (3) and (4) apply if the chairperson of the disciplinary panel becomes aware that a member who is, or is to be, a member of the panel as constituted for a proceeding has, in relation to the proceeding, an interest of the kind mentioned in subsection (1).

(3) If the chairperson considers that the member should not take part, or continue to take part, in the proceeding, the chairperson must direct the member accordingly.

(4) Unless the chairperson has acted under subsection (3), the chairperson must cause the interest of the member to be disclosed to the parties to the proceeding if the interest has not already been disclosed to them.

Acting chairperson

51L. The Governor in Council may appoint a person, who is eligible for appointment as the chairperson of the disciplinary panel, to act as chairperson—

- (a) during a vacancy in the office; or

- (b) during any period, or all periods, when the chairperson is absent from duty or Australia or is, for another reason, unable to perform the duties of the office; or
- (c) in relation to a proceeding in which the chairperson has an interest of a kind mentioned in section 51K(1).

Chairperson's power to give directions on arrangement of business

51M.(1) The chairperson of the disciplinary panel may give directions about—

- (a) the arrangement of the business of the disciplinary panel; and
- (b) the members of the disciplinary panel who are to constitute the panel for a particular proceeding.

(2) Subsections (3) and (4) apply if the chairperson gives a direction about the members who are to constitute the disciplinary panel for a particular proceeding.

(3) The chairperson may, at any time before the disciplinary panel starts to hear the proceeding, revoke the direction and give a further direction under subsection (1) as to the members who are to constitute the panel for the proceeding.

(4) Also, if 1 of the members ceases to be a member, or ceases to be available for the proceeding, during the hearing of the proceeding or after the completion of the hearing but before the matter to which the proceeding relates is determined, the chairperson may revoke the direction and give a further direction under subsection (1) as to the persons who are to constitute the disciplinary panel for the proceeding.

(5) This section is subject to section 51N.

Subdivision 2—Constituting disciplinary panel for particular proceedings

Constitution of disciplinary panel for particular proceeding

51N.(1) The disciplinary panel is to be constituted for the hearing and determination of a proceeding by—

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- (a) a member (the “**presiding member**”), eligible for appointment under section 51D(3)(a); and
- (b) 2 other members, each of whom is eligible for appointment under section 51D(3)(b).

(2) The member mentioned in subsection (1)(a) may, but need not, be the chairperson of the disciplinary panel.

(3) The disciplinary panel may be constituted for the exercise of powers in relation to the hearing of a proceeding, or for purposes other than the hearing and determination of a proceeding, by the presiding member.

(4) The disciplinary panel constituted by the presiding member alone, may make decisions and give directions only about the following—

- (a) whether an investigator appointed by the board has complied with section 45(4) and (5)(b);²
- (b) the way or sufficiency of service of a notice of a disciplinary charge;
- (c) the sufficiency of particulars of a disciplinary charge, and whether further and better particulars of the charge should be given;
- (d) the granting of leave to amend a notice of a disciplinary charge;
- (e) requiring a person making an affidavit for a hearing to be present at the hearing for cross-examination;
- (f) admissions about facts or documents;
- (g) the place, time and length of a hearing;
- (h) the issue of summonses by the member to witnesses;
- (i) the giving of evidence at a hearing;
- (j) the exchange of affidavits of proposed witnesses;
- (k) the disclosure of reports of expert witnesses before a hearing;
- (l) whether the whole or a stated part of a hearing should not be open to the public;
- (m) applying for further directions.

² Section 45 (Board may authorise investigation)

Member of disciplinary panel ceasing to be available

51O.(1) Subsections (2) and (3) apply if the hearing of a proceeding has been started or completed by the disciplinary panel but, before the matter to which the proceeding relates has been determined, 1 of the members constituting the panel (other than the presiding member) ceases to be a member, or ceases to be available for the proceeding.

(2) If the parties agree and the chairperson does not give a direction under section 51M, the hearing and determination, or the determination, of the proceeding may be completed by the disciplinary panel constituted by the remaining members.

(3) If subsection (2) does not apply, the proceeding is to be reheard by the disciplinary panel as constituted under section 51N.

(4) If the hearing of a proceeding has been started or completed by the disciplinary panel but, before the matter to which the proceeding relates has been determined, the presiding member ceases to be a member, or ceases to be available for the proceeding, the proceeding is to be reheard by the panel as constituted under section 51N.

(5) If a proceeding is reheard by the disciplinary panel, the panel may, for the proceeding, have regard to any record of the proceeding before the panel as previously constituted, including any evidence taken in the proceeding.

Sitting places

51P. Sittings of the disciplinary panel may be held as required at any place in the State.

Subdivision 3—Disciplinary panel proceedings**Proceedings before disciplinary panel**

52.(1) A disciplinary charge referred to the disciplinary panel for hearing and determination is to be filed with the panel's chairperson.

(2) The chairperson is to take all steps necessary to have the disciplinary panel constituted to hear and determine the charge.

(3) At least 30 days before the day fixed for the hearing, the chairperson

must give written notice to the person charged of the charge, its particulars and the place, day and time of the hearing.

(4) The hearing of the charge is to be open to the public unless the disciplinary panel determines that, in the special circumstances of the case, the whole or a particular part of the hearing should not be open to the public.

(5) At the hearing—

- (a) a lawyer or a person employed by the board may appear for adducing evidence or assisting the disciplinary panel; and
- (b) the person charged has the right to be represented by—
 - (i) a lawyer; or
 - (ii) a person nominated by the person charged as the person's agent.

(6) In conducting the hearing, the disciplinary panel—

- (a) must observe natural justice; and
- (b) must proceed quickly with as little formality and technicality as is consistent with a fair and proper hearing of the charge; and
- (c) is not bound by rules or practice about evidence and may inform itself on any matter as the panel considers appropriate.

(7) Subject to subsection (6), the chairperson may give directions about the procedure to be followed in a hearing.

Powers of disciplinary panel

56.(1) In a proceeding, the disciplinary panel may—

- (a) by written notice, require a person to attend before the panel at a specified time and place—
 - (i) to give evidence; or
 - (ii) to produce a specified document or thing; and
- (b) require a person appearing before the panel to give evidence either to take an oath or make an affirmation and, for that purpose, the presiding member may administer an oath or affirmation; and
- (c) proceed in the absence of the person charged if the person has had

reasonable notice of the proceeding.

(2) The disciplinary panel may adjourn the proceeding from time to time.

(3) The oath or affirmation to be taken or made by a person for the purposes of this section is an oath or affirmation that the evidence that the person gives will be true.

Inspection of documents

57.(1) If a document or thing is produced to the disciplinary panel, the panel may—

- (a) examine the document or thing; and
- (b) make copies of, or take extracts from, the document or photograph the thing if it is relevant to the proceeding.

(2) The disciplinary panel may take possession of, and retain for as long as is reasonably necessary, a document or thing produced to the panel.

(3) While it retains possession of a document or thing, the disciplinary panel must permit a person otherwise entitled to possession of the document or thing—

- (a) to examine the document or thing; or
- (b) to make copies of, or take extracts from, the document or photograph the thing;

at such reasonable time and place as the panel determines.

Offences—proceedings

58.(1) A person served, as prescribed, with a notice under section 56(1)(a) must not fail, without reasonable excuse—

- (a) to attend a proceeding as required by the notice; or
- (b) to continue to attend as required by the presiding member until excused from further attendance; or
- (c) to produce a document or thing that is specified in the notice.

Maximum penalty—8 penalty units.

(2) A person appearing as a witness in a proceeding must not fail—

- (a) to take an oath, or make an affirmation, when required to do so by the presiding member; or
- (b) without reasonable excuse, to answer a question when required to do so by the presiding member.

Maximum penalty—8 penalty units.

(3) A person who appears as a witness before the disciplinary panel is entitled to be paid the prescribed allowance for attendance at the hearing.

Self-incrimination a reasonable excuse

59. A person is not required—

- (a) to produce to the disciplinary panel a document or thing; or
- (b) to answer a question asked by a member of the disciplinary panel;

if producing the document or thing, or answering the question, might tend to incriminate the person.

Determinations of questions before disciplinary panel

59A.(1) A question before the disciplinary panel is to be decided according to the opinion of the majority of the members constituting the panel for the hearing of the disciplinary charge concerned.

(2) However, if the members of the disciplinary panel are equally divided on a question, the question is to be decided according to the opinion of the presiding member.

(3) Also, a question of law arising before the disciplinary panel is to be decided by the presiding member.

Disciplinary panel may order cancellation of registration, etc.

60.(1) If the disciplinary panel finds a registered person guilty of the charge made against the person, the panel may—

- (a) take no action; or
- (b) caution the person; or
- (c) reprimand the person; or

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- (d) order the person to pay to the board, by way of penalty, an amount (not more than 40 penalty units) fixed by the panel; or
- (e) order that the person's registration be cancelled; or
- (f) order that the person be disqualified from obtaining registration under this Act indefinitely or for a specified period; or
- (g) if the registered person is—
 - (i) the executive officer of a registered professional engineering company; or
 - (ii) the person in charge of a registered professional engineering unit;

who the panel has found is not a fit and proper person to be a registered person, order—

- (iii) that the person be disqualified from holding office as an executive officer or person in charge indefinitely or for a specified period; or
- (iv) that the company's or unit's certificate of registration be withdrawn until such time as the board is satisfied that the registered person is no longer a person mentioned in subparagraph (i) or (ii).

(2) If the disciplinary panel makes an order under subsection (1)(e), the board must remove the person's name from the register in which that name appears.

(3) The disciplinary panel may order the person to pay to the board the amount of the costs of and incidental to the proceeding, including the cost of the investigation that preceded the proceeding.

(4) If the disciplinary panel makes an order under subsection (1)(d), the order may contain a direction that the person's registration be suspended for a specified period if the person fails to pay the penalty within a specified time.

(5) If the person does not pay the amount ordered within the time specified, the person's registration is suspended for the period specified in the direction.

Division 3—Other matters**Effect of removal etc. of certificate**

61.(1) A person whose name is removed from a register under section 60 ceases to be a registered person.

(2) A person—

- (a) whose certificate of registration is withdrawn; or
- (b) whose registration is suspended;

under section 60 is taken not to be a registered person while the certificate is withdrawn or the registration is suspended.

Notification of disciplinary panel's decisions and reasons

61A.(1) The disciplinary panel must give written notice of its decisions under section 60 to the board and the person charged as soon as practicable after making the decision.

(2) The notice must state the reasons for the decision.

(3) Also, the notice given to the person charged must state that a person aggrieved by the decision may appeal against the decision to a District Court judge within 28 days after the person receives notice of the decision.

(4) In this section—

“**decision**” includes order.

Notice of cancellation of registration

62.(1) If the board cancels a registered person's registration under an order made under section 60, the board must give notice of the cancellation in the gazette.

(2) The notice must be published no sooner than 28 days after the making of the order.

(3) If an appeal against the order is instituted, the notice must not be published unless the appeal is finally determined.

Surrender of certificate

63. A person whose certificate of registration is cancelled must surrender the certificate to the board within 14 days after the publication of a notice under section 62.

Maximum penalty—20 penalty units.

PART 9—MISCELLANEOUS**Issue of duplicate certificate**

64.(1) The board may, on application made to it in the form approved by the board, and payment of the prescribe fee, issue a replacement certificate of registration.

(2) The board must not issue a replacement certificate unless it is satisfied that the original of the certificate has been lost or destroyed.

(3) If the certificate relates to—

- (a) a registered professional engineering company—the application must be made by the executive officer of the company; or
- (b) a registered professional engineering unit—the application must be made by the person in charge of the unit.

(4) The board must endorse on the certificate the reasons for the issue of the certificate.

Unauthorised dealing with register

65. Unless authorised by this Act, a person must not—

- (a) make an entry in a register; or
- (b) alter an entry in a register; or
- (c) remove a name from a register; or
- (d) restore a person's name to a register.

Maximum penalty—40 penalty units.

False statements

66.(1) A person must not—

- (a) make a statement to the board or disciplinary panel that the person knows is false or misleading in a material particular; or
- (b) omit from a statement made to the board or disciplinary panel anything without which the statement is, to the person's knowledge, misleading in a material particular; or
- (c) give to the board or disciplinary panel a document containing information that the person knows is false, misleading or incomplete in a material particular without, at the same time—
 - (i) indicating that the document is false, misleading or incomplete and the respect in which it is false, misleading or incomplete; and
 - (ii) giving correct information if the person has, or can reasonably obtain, the correct information.

Maximum penalty—40 penalty units.

(2) A complaint against a person for an offence against subsection (1)(a) or (b) is sufficient if it states that the information given was false or misleading to the person's knowledge.

Appeals

67.(1) This section applies to the following decisions and order—

- (a) a decision of the board—
 - (i) to refuse a person's application for registration under the Act; or
 - (ii) to refuse to renew a person's registration under the Act; or
 - (iii) to refuse to restore the person's name to a register;
- (b) a decision of the disciplinary panel—
 - (i) to caution a registered person; or
 - (ii) to reprimand a registered person;
- (c) an order (a "**disciplinary order**") of the disciplinary panel made

under section 60(1)(d), (e), (f), or (g) or (3) or (4).

(1A) A person who is aggrieved by the decision or disciplinary order may appeal against the decision or order to a District Court judge.

(1B) However, the board may appeal only against a disciplinary order.

(2) The appeal—

(a) must be instituted—

(i) within 28 days after the person receives notice of the decision or disciplinary order; and

(ii) by filing a notice of appeal in the appropriate registry of the District Court; and

(b) is by way of rehearing on the material before the board or disciplinary panel or, if the judge hearing the appeal so orders, on material submitted on the appeal, or on both.

(3) The judge may—

(a) if the appeal is made against a decision of a kind mentioned in subsection (1)(a)(i)—

(i) allow the appeal and order the board to register the person as a professional engineer, professional engineering company or professional engineering unit; or

(ii) dismiss the appeal; or

(b) if the appeal is made against a decision of a kind mentioned in subsection (1)(a)(ii)—

(i) allow the appeal and order the board to renew the person's registration under the Act; or

(ii) dismiss the appeal; or

(c) if the appeal is made against a decision of a kind mentioned in subsection (1)(a)(iii)—

(i) allow the appeal and order the board to restore the person's name to the register; or

(ii) dismiss the appeal; or

(d) if the appeal is made against a decision of a kind mentioned in

subsection (1)(b) or a disciplinary order—

- (i) allow the appeal; or
- (ii) allow the appeal and make any decision or order the disciplinary panel may make under section 60; or
- (iii) dismiss the appeal.

(4) If on appeal an order is made for payment of a monetary penalty by the appellant, the payment is to be made to the board and, for purposes of enforcement, the order is taken to be an order of the disciplinary panel under section 60.

Proceedings on behalf of board

68.(1) A proceeding in a court in the name of the board may be instituted by the chairperson, the registrar or another person authorised in writing by the chairperson.

(2) All penalties and costs ordered to be paid in respect of offences are to be paid to the board.

(3) All fees payable to the board under this Act, and all penalties and costs ordered by the disciplinary panel to be paid to the board under this Act, constitute debts due to the board and may be recovered in a court having jurisdiction for the recovery of debts up to the amount concerned.

Evidentiary provisions

69. In a proceeding for the purposes of this Act—

- (a) a certificate signed by the registrar that a person named in the certificate—
 - (i) was or was not at a time or for a period specified in the certificate registered under the Act; or
 - (ii) was removed from a specified register on a date specified in the certificate;

is evidence of a fact stated in the certificate; and

- (b) a document certified by the registrar to be a true copy of, or extract from, a register, book, certificate, notice, list, declaration or

document in the board's custody is evidence of the matter stated in the document; and

- (c) it is not necessary to prove—
- (i) the authority of the person who instituted the proceeding; or
 - (ii) the appointment of a member of the board.

Judicial notice

70. The signatures of the chairpersons of the board and disciplinary panel and of the registrar are to be judicially noticed.

References to repealed Act

70A. A reference in an Act or document to the *Professional Engineers Act 1929* is taken to be a reference to this Act.

Regulations

71.(1) The Governor in Council may make regulations for the purposes of this Act.

(2) A regulation may impose a penalty by way of fine of not more than 4 penalty units for a contravention of a regulation.

PART 10—TRANSITIONAL

Disciplinary charges before the board

72.(1) This section applies if, at the commencement of this section, a disciplinary charge has been given to the board under section 51(2) as in force immediately before the commencement and the board has not started proceedings against the person to whom the charge relates.

(2) The charge is withdrawn, but the board may, after considering the investigator's report relevant to the charge, act under section 51 as in force after the commencement.

Existing proceedings

73.(1) This section applies if, at the commencement of this section, the board has started a proceeding against a person for a disciplinary charge but the proceeding has not been completed.

(2) The proceeding may be continued before, and completed by, the board as if the *Professional Engineers Amendment Act 1997* had not been enacted.

ENDNOTES**1 Index to endnotes**

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 3 September 1997. Future amendments of the Professional Engineers Act 1988 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 87 of 1994	2 February 1996

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Obsolete and redundant provisions	1
Corrected minor errors	1
Renumbered provisions	1

6 List of legislation

Professional Engineers Act 1988 No. 72

date of assent 28 October 1988

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 1989 (proc pubd gaz 28 January 1989 p 628)

as amended by—

Statute Law (Miscellaneous Provisions) Act 1991 No. 97 ss 1–3 sch 2

date of assent 17 December 1991

commenced on date of assent

Professional Engineers Amendment Act 1992 No. 61

date of assent 7 December 1992

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 2

date of assent 1 December 1994

commenced on date of assent

Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch

date of assent 20 November 1996

remaining provisions commenced 1 June 1997 (1997 SL No. 128)

Professional Engineers Amendment Act 1997 No. 44

date of assent 25 August 1997

commenced on date of assent

7 List of annotations

Commencement

s 2 om R1 (see RA s 37)

Arrangement of Act

s 3 om 1991 No. 97 s 3 sch 2

Repeals and savings

s 4 om 1991 No. 97 s 3 sch 2

Interpretation

s 5 def “**chairperson**” sub 1997 No. 44 s 3

def “**disciplinary panel**” ins 1997 No. 44 s 3(2)

def “**investigator**” ins 1992 No. 61 s 3

def “**member**” sub 1997 No. 44 s 3

def “**Minister**” om 1991 No. 97 s 3 sch 2

def “**presiding member**” ins 1997 No. 44 s 3(2)

def “**registered professional engineering unit**” ins 1992 No. 61 s 3

Duration of appointment

s 12 sub 1992 No. 61 s 4

Terms of appointment

s 12A ins 1992 No. 61 s 4

PART 3—REGISTERS

pt hdg sub 1992 No. 61 s 5

Funds of Board

s 16 amd 1996 No. 54 s 9 sch; 1997 No. 44 s 2 sch

Board is statutory body

s 16A ins 1996 No. 54 s 9 sch

Registers to be kept

s 17 sub 1992 No. 61 s 5

Publication of roll

s 17A ins 1992 No. 61 s 5

Applications for registration

s 20 sub 1992 No. 61 s 6

Certificate of registration

s 22 sub 1992 No. 61 s 7

Publication of roll of registered professional engineers

s 24 om 1992 No. 61 s 8

Appeals against refusal to register

s 25 om 1992 No. 61 s 9

Removal from register of registered professional engineers

s 26 amd 1991 No. 97 s 3 sch 2; 1992 No. 61 s 10; 1997 No. 44 s 2 sch

Return of certificate

s 27 amd 1997 No. 44 s 2 sch

Restoration

s 28 sub 1992 No. 61 s 11

Applications for registration

s 31 sub 1992 No. 61 s 12

Certificate of registration

s 33 sub 1992 No. 61 s 13

Publication of roll of professional engineering companies

s 35 om 1992 No. 61 s 14

Returns by registered professional engineering companies

s 36 amd 1992 No. 61 s 15

Appeals against refusal to register

s 37 om 1992 No. 61 s 16

Removal from register of registered professional engineering companies

s 38 amd 1992 No. 61 s 17; amd 1997 No. 44 s 2 sch

Return of certificate

s 39 amd 1997 No. 44 s 2 sch

Restoration

s 40 sub 1992 No. 61 s 18

PART 6—REGISTERED PROFESSIONAL ENGINEERING UNITS

pt hdg sub 1992 No. 61 s 19

Board may register professional engineering units

s 40A ins 1992 No. 61 s 19

Conditions of registration

s 40B ins 1992 No. 61 s 19

Applications for registration

s 40C ins 1992 No. 61 s 19

Certificate of registration

s 40D ins 1992 No. 61 s 19

Renewal of registration

s 40E ins 1992 No. 61 s 19

Removal from register

s 40F ins 1992 No. 61 s 19

Return of certificate

s 40G ins 1992 No. 61 s 19

Restoration

s 40H ins 1992 No. 61 s 19

Change in person in charge of registered professional engineering unit

s 40I ins 1992 No. 61 s 19

PART 7—PROHIBITED PRACTICES

pt hdg sub 1992 No. 61 s 19

Prohibited practices

s 41 sub 1992 No. 61 s 19

Registered name to be used

s 42 sub 1992 No. 61 s 19

PART 8—COMPLAINTS AND PROCEEDINGS

pt hdg sub 1992 No. 61 s 19; 1997 No. 44 s 4

Division 1—Complaints and investigations

div hdg ins 1997 No. 44 s 4

Interpretation

s 43 sub 1992 No. 61 s 19

def “**commission**” om 1997 No. 44 s 2 sch

Complaints

s 44 sub 1992 No. 61 s 19

Board may authorise investigation

s 45 sub 1992 No. 61 s 19

Powers of investigator

s 46 sub 1992 No. 61 s 19

Entry and search—evidence of offences

s 47 sub 1992 No. 61 s 19

General powers of investigator in relation to places

s 48 sub 1992 No. 61 s 19

Offence related warrants

s 49 sub 1992 No. 61 s 19

Charge of offence may be laid

s 50 sub 1992 No. 61 s 19

Disciplinary charge may be laid and referred to disciplinary panel

prov hdg sub 1997 No. 44 s 5(1)

s 51 sub 1992 No. 61 s 19

amd 1997 No. 44 s 5(2)–(6)

def “**commission**” ins 1997 No. 44 s 2 sch**Division 2—Disciplinary charges and proceedings**

div hdg ins 1997 No. 44 s 6

Subdivision 1—Establishment and membership of disciplinary panel

sdiv hdg ins 1997 No. 44 s 6

Disciplinary panel

s 51A ins 1997 No. 44 s 6

Disciplinary panel’s functions

s 51B ins 1997 No. 44 s 6

Disciplinary panel’s powers

s 51C ins 1997 No. 44 s 6

Membership of disciplinary panel

s 51D ins 1997 No. 44 s 6

Appointment of members

s 51E ins 1997 No. 44 s 6

Restriction on appointment

s 51F ins 1997 No. 44 s 6

Duration of appointment

s 51G ins 1997 No. 44 s 6

Conditions of appointment

s 51H ins 1997 No. 44 s 6

Member ceasing as a member

s 51I ins 1997 No. 44 s 6

Ending of appointment

s 51J ins 1997 No. 44 s 6

Disclosure of interests

s 51K ins 1997 No. 44 s 6

Acting chairperson

s 51L ins 1997 No. 44 s 6

Chairperson's power to give directions on arrangement of business

s 51M ins 1997 No. 44 s 6

Subdivision 2—Constituting disciplinary panel for particular proceedings

sdiv hdg ins 1997 No. 44 s 6

Constitution of disciplinary panel for particular proceeding

s 51N ins 1997 No. 44 s 6

Member of disciplinary panel ceasing to be available

s 51O ins 1997 No. 44 s 6

Sitting places

s 51P ins 1997 No. 44 s 6

Subdivision 3—Disciplinary panel proceedings

sdiv hdg ins 1997 No. 44 s 7

Proceedings before disciplinary panel

s 52 sub 1992 No. 61 s 19

Records

s 53 sub 1992 No. 61 s 19
om 1997 No. 44 s 8

Procedure

s 54 sub 1992 No. 61 s 19
om 1997 No. 44 s 8

Representation

s 55 sub 1992 No. 61 s 19
om 1997 No. 44 s 8

Powers of disciplinary panel

prov hdg amd 1997 No. 44 s 2 sch
s 56 sub 1992 No. 61 s 19
amd 1997 No. 44 s 2 sch

Inspection of documents

s 57 sub 1992 No. 61 s 19
amd 1997 No. 44 s 2 sch

Offences—proceedings

s 58 sub 1992 No. 61 s 19
amd 1997 No. 44 s 2 sch

Self-incrimination a reasonable excuse

s 59 sub 1992 No. 61 s 19
amd 1997 No. 44 s 2 sch

Determinations of questions before disciplinary panel

s 59A ins 1997 No. 44 s 9

Disciplinary panel may order cancellation of registration, etc.

prov hdg sub 1997 No. 44 s 10(1)
s 60 sub 1992 No. 61 s 19
amd 1997 No. 44 s 10(2)–(7)

Division 3—Other matters

div hdg ins 1997 No. 44 s 2 sch

Effect of removal etc. of certificate

s 61 sub 1992 No. 61 s 19

Notification of disciplinary panel's decisions and reasons

s 61A ins 1997 No. 44 s 11

Notice of cancellation of registration

prov hdg sub 1997 No. 44 s 12(1)
s 62 sub 1992 No. 61 s 19
amd 1997 No. 44 s 12(2)–(5)

Surrender of certificate

s 63 sub 1992 No. 61 s 19

PART 9—MISCELLANEOUS

pt hdg ins 1992 No. 61 s 19

Issue of duplicate certificate

s 64 ins 1992 No. 61 s 19

Unauthorised dealing with register

s 65 ins 1992 No. 61 s 19

False statements

s 66 ins 1992 No. 61 s 19
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s 67 ins 1992 No. 61 s 19
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s 68 ins 1992 No. 61 s 19
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Evidentiary provisions

s 69 ins 1992 No. 61 s 19

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s 70 ins 1992 No. 61 s 19
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References to repealed Act

s 70A ins 1994 No. 87 s 3 sch 2

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s 71 ins 1992 No. 61 s 19

PART 10—TRANSITIONAL

pt 10 hdg ins 1997 No. 44 s 15

Disciplinary charges before the board

s 72 ins 1997 No. 44 s 15

Existing proceedings

s 73 ins 1997 No. 44 s 15