



Queensland

# **Professional Engineers and Other Legislation Amendment Act 2008**

**Act No. 14 of 2008**





Queensland

# Professional Engineers and Other Legislation Amendment Act 2008

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Queensland

# Professional Engineers and Other Legislation Amendment Act 2008

## Act No. 14 of 2008

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An Act to amend the *Professional Engineers Act 2002* and  
other Acts

[Assented to 23 April 2008]

[s 1]

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**The Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Professional Engineers and Other Legislation Amendment Act 2008*.

### **2 Commencement**

Part 3 commences on 1 July 2008.

## **Part 2 Amendments of Professional Engineers Act 2002 commencing on assent**

### **3 Act amended in pt 2**

This part amends the *Professional Engineers Act 2002*.

### **4 Amendment of s 23 (Applying for restoration)**

Section 23(2)(b)(iii)—

*omit, insert—*

‘(iii) the application fee prescribed under a regulation;

(iv) the annual registration fee.’.

### **5 Insertion of new ss 35A and 35B**

Part 2, division 8, after section 35—

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*insert—*

**‘35A Inquiries about fitness to practise as a registered professional engineer**

- ‘(1) This section applies to the following persons (each a *relevant person*)—
- (a) an individual applying for registration as a registered professional engineer under section 8;
  - (b) a registered professional engineer applying for renewal of registration under section 18;
  - (c) a person applying for restoration of the person’s registration under section 23.
- ‘(2) The board may make inquiries about the relevant person to help in deciding whether the person is, or continues to be, fit to practise as a registered professional engineer.

**‘35B Report about relevant person’s criminal history**

- ‘(1) The board may ask the commissioner of the police service for a written report about the criminal history of a relevant person.
- ‘(2) If asked by the board, the commissioner of the police service must give the board a written report about the criminal history of the relevant person.
- ‘(3) The duty imposed on the commissioner of the police service applies only to information in the commissioner’s possession or to which the commissioner has access.
- ‘(4) A report mentioned in subsection (2) may only be used for the purposes of this Act and must be destroyed as soon as practicable after it is no longer needed for those purposes.’.

**6 Insertion of new pt 3, div 1AA**

Part 3, before division 1—

*insert—*

[s 7]

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## **‘Division 1AA      Extended application of part 3**

### **‘36AA Application to former registered professional engineers**

- ‘(1) Action may be taken under this part in relation to a person who was a registered professional engineer at the time the conduct of the person that is relevant for this part happened even though the person is no longer a registered professional engineer.
- ‘(2) For the purpose of taking action under this part, the person mentioned in subsection (1) is taken to be a registered professional engineer.
- ‘(3) This section does not limit, but may extend, the operation of the other provisions of this part.’.

### **7      Insertion of new s 69AA**

Part 4, before section 69—

*insert—*

### **‘69AA Application of pt 4 to certain former registered professional engineers**

‘For applying this part to a person mentioned in section 36AA(1), the person is taken to be a registered professional engineer.’.

### **8      Amendment of s 82 (Membership of board)**

Section 82(2)(b)(i), ‘Engineers (Australia)’—

*omit, insert—*

‘Engineers Australia’.

### **9      Amendment of pt 5, div 7 hdg (Registrar of board)**

Part 5, division 7, heading, after ‘board’—

*insert—*

**‘and other staff’.**

**10 Insertion of new s 100A**

After section 100—

*insert—*

**‘100A Other staff**

‘With the board’s consent, other public service employees may be engaged by a public sector unit to provide services for the board.’.

**11 Replacement of s 101 (Board to reimburse cost of registrar’s services)**

Section 101—

*omit, insert—*

**‘101 Board to reimburse cost of registrar’s or other staff’s services**

‘The board must reimburse the public sector unit in which the registrar or a public service employee is employed the reasonable costs of the services provided by the registrar or public service employee for the board.’.

**12 Insertion of new pt 6A**

After section 112—

*insert—*

[s 12]

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## **‘Part 6A                      Assessment entities and schemes**

### **‘Division 1                      Preliminary**

#### **‘112A Definitions for pt 6A**

‘In this part—

*application for approval* means an application for approval of a proposed assessment scheme under section 112C.

*application for renewal* means an application for renewal of the approval of an assessment scheme under section 112D.

*application for variation* means an application for variation of an assessment scheme under section 112E.

*area of engineering* includes an area of engineering that is not prescribed under a regulation.

*assessment entity*, in relation to an assessment scheme, means the entity for which the scheme was approved.

*assessment scheme* means a scheme approved under this part.

*suitable for approval* see section 112B.

### **‘Division 2                      Suitability of assessment schemes**

#### **‘112B Suitability of assessment schemes for approval**

- ‘(1) A proposed assessment scheme is, and an assessment scheme continues to be, *suitable for approval* under this part if—
- (a) the scheme adequately provides for the assessment of qualifications and competencies of engineers in an identifiable area of engineering; and
  - (b) the scheme is consistent with national and international standards for the recognition of professional engineers; and

- (c) the scheme includes procedures for the assessment of applicants under part 2 that are conducted in an independent and professional manner; and
- (d) the entity conducting the scheme has adequate procedures for monitoring and improving the assessment process carried out under the scheme; and
- (e) the fees imposed under the scheme for the assessment of qualifications and competencies are reasonable having regard to the scope of the services being offered; and
- (f) the scheme includes adequate continuing professional development requirements for professional engineers and an effective audit program to ensure continuing registration requirements are met; and
- (g) the entity conducting the scheme employs competent persons to perform assessments of applicants under part 2 and has proven procedures for training and accrediting those persons who will perform the assessments; and
- (h) the entity conducting the scheme has the financial capacity and facilities to conduct assessments of qualifications and competencies; and
- (i) the entity conducting the scheme has a proven capacity to undertake independent and authoritative assessments in a timely manner; and
- (j) the scheme or entity conducting the scheme satisfies other criteria provided for under a regulation.

(2) In this section—

***continuing registration requirements*** means requirements that—

- (a) if satisfied, demonstrate that an applicant for renewal or restoration of registration has maintained competency in the practice of engineering in the area of engineering for which the applicant is, or was, registered; and
- (b) may include requirements about the following for the area of engineering—

[s 12]

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- (i) the nature, extent and period of practice of engineering by the applicant;
- (ii) the nature and extent of continuing professional development to be undertaken by the applicant;
- (iii) the nature and extent of research, study or teaching, relating to engineering, to be undertaken by the applicant;
- (iv) the nature and extent of administrative work, relating to engineering, to be performed by the applicant.

### **‘Division 3                    Applications relating to assessment schemes**

#### **‘112C Application for approval**

- ‘(1) An entity may apply to the Minister for approval of a proposed assessment scheme for 1 or more areas of engineering to be conducted by the entity.
- ‘(2) The application must—
  - (a) be in the approved form; and
  - (b) be supported by enough information to enable the Minister to decide the application; and
  - (c) be accompanied by—
    - (i) the proposed assessment scheme; and
    - (ii) the fee, if any, prescribed under a regulation.

#### **‘112D Application for renewal**

- ‘(1) The assessment entity for an assessment scheme may apply to the Minister for renewal of the approval of the assessment scheme.
- ‘(2) The application must—



- (a) be in the approved form; and
- (b) be supported by enough information to enable the Minister to decide the application; and
- (c) be made at least 28 days before the approval ends; and
- (d) be accompanied by the fee, if any, prescribed under a regulation.

#### **‘112E Application for variation**

- ‘(1) The assessment entity for an assessment scheme may apply to the Minister for variation of the assessment scheme.
- ‘(2) The application must—
  - (a) be in the approved form; and
  - (b) be supported by enough information to enable the Minister to decide the application; and
  - (c) be accompanied by—
    - (i) the proposed variation of the assessment scheme; and
    - (ii) the fee, if any, prescribed under a regulation.

### **‘Division 4 Referral of applications under this part to the board**

#### **‘112F Minister to refer an application under this part to the board for assessment**

‘After receiving an application under this part the Minister must refer the application to the board for assessment.

#### **‘112G Consideration by board**

- ‘(1) The board must consider—

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- (a) for an application for approval—whether the applicant’s proposed assessment scheme is suitable for approval; or
  - (b) for an application for renewal—whether the applicant’s assessment scheme continues to be suitable for approval; or
  - (c) for an application for variation—whether the applicant’s assessment scheme as proposed to be varied is suitable for approval.
- ‘(2) In its consideration, the board is not restricted to the information contained in the application.

#### **‘112H Further information or document to support application**

- ‘(1) The board may, by notice given to the applicant, require the applicant to give the board, within a reasonable time of at least 14 days stated in the notice, further information or a document the board reasonably requires to make its recommendation on the application.
- ‘(2) The board and the applicant may agree on an extension of the time stated in the notice.
- ‘(3) The applicant is taken to have withdrawn its application if within the following time the applicant does not comply with the requirement—
- (a) the time stated in the notice;
  - (b) if the board and the applicant have agreed on an extension of time—the time agreed to.

#### **‘112I Report by board about application**

- ‘(1) The board must give the Minister a written report about the application.
- ‘(2) The report must contain—
- (a) the board’s recommendation about whether the Minister should grant the application; and

- (b) if the board recommends that the Minister grant the application—any recommendation by the board that the Minister impose a condition on the approval.
- ‘(3) In this section—  
*recommendation* includes reasons for the recommendation.

## **‘Division 5                    Decision of Minister**

### **‘112J Decision on application**

- ‘(1) The Minister must consider the application and decide to either grant, or refuse to grant, the application.
- ‘(2) When considering the application, the Minister must have regard to the board’s report on the application but is not bound by any recommendation contained in the report.
- ‘(3) The Minister may grant the application only if the Minister is satisfied that—
  - (a) for an application for approval—the proposed assessment scheme is suitable for approval; or
  - (b) for an application for renewal—the assessment scheme continues to be suitable for approval; or
  - (c) for an application for variation—the assessment scheme as proposed to be varied is suitable for approval.
- ‘(4) The Minister may, in granting the application, decide to impose conditions on the approval that are reasonable and relevant.

### **‘112K Grant of application**

‘If the Minister decides to grant the application without conditions, the Minister must as soon as practicable give the applicant notice of the decision.

[s 12]

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### **‘112L Grant of application with conditions**

- ‘(1) If the Minister proposes to grant the application with conditions, the Minister must give the applicant a notice stating the following—
- (a) the Minister proposes to grant the application with conditions (the *proposed decision*);
  - (b) the proposed conditions;
  - (c) the reasons for the proposed decision;
  - (d) that the applicant may make, within 28 days of receiving the notice, written representations to the Minister about the proposed decision.
- ‘(2) The Minister must consider all written representations about the proposed decision (the *accepted representations*) made by the applicant within 28 days of receiving the notice under subsection (1).
- ‘(3) After considering the accepted representations, or if there are no accepted representations, the Minister must decide to grant the application with, or without, conditions.
- ‘(4) The Minister may impose any conditions under subsection (3) that are reasonable and relevant.
- ‘(5) The Minister must, as soon as practicable after making a decision under subsection (3), give the applicant—
- (a) for a decision to grant the application without conditions—notice of the decision; or
  - (b) for a decision to grant the application with conditions—notice of the decision and reasons for the decision.

### **‘112M Refusal of application**

- ‘(1) If the Minister proposes to refuse to grant the application, the Minister must give the applicant a notice stating the following—

- 
- (a) the Minister proposes to refuse to grant the application (the *proposed decision*);
  - (b) the reasons for the proposed decision;
  - (c) that the applicant may make, within 28 days of receiving the notice, written representations to the Minister about the proposed decision.
- ‘(2) The Minister must consider all written representations about the proposed decision (the *accepted representations*) made by the applicant within 28 days of receiving the notice under subsection (1).
- ‘(3) After considering the accepted representations, or if there are no accepted representations, the Minister must decide—
- (a) to grant the application, with or without conditions; or
  - (b) to refuse to grant the application.
- ‘(4) As soon as practicable after deciding under subsection (3), the Minister must give the applicant—
- (a) for a decision to grant the application without conditions—notice of the decision; or
  - (b) for a decision to grant the application with conditions or to refuse to grant the application—notice of the decision and reasons for the decision.
- ‘(5) To remove any doubt, it is declared that section 112L does not apply in relation to conditions imposed under this section.

## ‘Division 6            Term of approval

### ‘112N Term of approval

- ‘(1) Unless sooner cancelled, suspended or otherwise ended, an approval under this part remains in force for the term decided by the Minister when granting an application for approval or renewal.
- ‘(2) A term under subsection (1) must not be more than 5 years.



- 
- provided for under the scheme and the applicant does not have those qualifications or competencies;
- (c) the approval was granted because of a materially false or misleading representation or declaration;
  - (d) the assessment entity for the scheme has contravened a condition of the approval;
  - (e) the assessment entity for the scheme has contravened a provision of this Act.

### **‘112Q Show cause notice**

- ‘(1) This section applies if—
  - (a) the Minister believes a ground exists to cancel or suspend the approval of an assessment scheme; and
  - (b) the Minister proposes to cancel or suspend the approval (the *proposed action*).
- ‘(2) The Minister must give the assessment entity for the assessment scheme a notice (a *show cause notice*) stating the following—
  - (a) the proposed action;
  - (b) if proposing to suspend an approval—the period of the proposed suspension;
  - (c) the grounds for the cancellation or suspension;
  - (d) an outline of the facts and circumstances forming the basis for the grounds;
  - (e) that the assessment entity may make, within a stated period (the *show cause period*), written representations explaining why the approval should not be cancelled or suspended.
- ‘(3) The show cause period must be a period ending at least 21 days after the show cause notice is given to the assessment entity.

[s 12]

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### **‘112R Consideration of representations**

‘The Minister must consider all written representations (the *accepted representations*) made in the show cause period by the assessment entity.

### **‘112S Ending show cause process without further action**

‘If, after considering the accepted representations for the show cause notice, the Minister no longer believes the ground exists to take the proposed action, the Minister—

- (a) must not take further action about the show cause notice; and
- (b) must, as soon as practicable, give notice to the assessment entity that no further action is to be taken about the show cause notice.

### **‘112T Cancellation or suspension of approval**

‘(1) This section applies if, after considering the accepted representations for the show cause notice, the Minister—

- (a) still believes the ground exists to cancel or suspend the approval; and
- (b) believes cancellation or suspension is warranted.

‘(2) This section also applies if there are no accepted representations for the show cause notice.

‘(3) The Minister may—

- (a) if the proposed action was to cancel the approval—cancel the approval or suspend it for a period; or
- (b) if the proposed action was to suspend the approval for a period—suspend the approval for not longer than that period.

‘(4) If the Minister decides to cancel or suspend the approval of the assessment scheme, the Minister must give the assessment entity notice of the decision and the reasons for the decision.



- ‘(5) The decision takes effect—
- (a) on the day the notice is given to the assessment entity; or
  - (b) if a later day is stated in the notice—on the later day.

### **‘112U Voluntary surrender of approval**

- ‘(1) The assessment entity for an assessment scheme may surrender the approval for the scheme by notice given to the Minister.
- ‘(2) The surrender of the approval takes effect—
- (a) 90 days after the day the notice is given to the Minister;  
or
  - (b) if a later day is stated in the notice, on the later day.

## **‘Division 8 Record of assessment entities**

### **‘112V Record of assessment entities**

- ‘(1) The board must keep a record stating each of the following—
- (a) the name of each assessment entity;
  - (b) the contact details for the entity;
  - (c) the areas of engineering for which the entity conducts an assessment scheme.
- ‘(2) The board must—
- (a) publish the record on the board’s website on the internet; and
  - (b) keep the record available for inspection, without charge, during normal business hours at the board’s office; and
  - (c) if asked by a person and on payment of the fee, if any, prescribed under a regulation, give the person a copy of all or part of the record.

[s 13]

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*Editor's note—*

The board's website on the internet is <www.bpeq.qld.gov.au>.

**13 Amendment of s 128 (Starting disciplinary proceeding)**

(1) Section 128(1)(a), 'section 29'—

*omit, insert—*

'section 31(1)(a)'.

(2) Section 128(1)(b), 'section 29(1)'—

*omit, insert—*

'section 31(1)(b)'.

(3) Section 128(1)(c)—

*omit, insert—*

'(c) serving, under section 31(3) of that Act, a copy of the application on the person to whom the proceeding relates.'

**14 Amendment of s 129 (Tribunal to have regard to code of practice)**

Section 129, 'the registered professional engineer'—

*omit, insert—*

'a registered professional engineer or former registered professional engineer'.

**15 Amendment of s 131 (Orders relating to registered professional engineer)**

(1) Section 131(2), '40'—

*omit, insert—*

'200'.

(2) Section 131(3)(b) and (c)—

*renumber* as section 131(3)(d) and (e).

(3) Section 131(3)—

*insert—*

‘(b) imposing a condition on the registered professional engineer’s registration including, for example, to submit to an audit of the engineer’s practice of engineering; or

(c) suspending the registered professional engineer’s registration for a stated period; or’.

(4) Section 131(6), after ‘suspension’—

*insert—*

‘under subsection (5)’.

**16 Amendment of s 132 (Orders relating to former registered professional engineer)**

(1) Section 132(1)—

*omit, insert—*

‘(1) This section applies if the tribunal decides that a disciplinary ground is established against a person who is not a registered professional engineer at the time of the tribunal’s decision.’.

(2) Section 132(2)(b)—

*omit, insert—*

‘(b) to do 1 or more of the following—

(i) order the person to pay a stated amount of not more than the equivalent of 200 penalty units;

(ii) make an order reprimanding the person;

(iii) make an order disqualifying, indefinitely or for a stated period, the person from obtaining registration as a registered professional engineer.’.

(3) Section 132(3) and (4)—

*omit.*

[s 17]

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**17 Amendment of s 133 (Effect of particular orders)**

(1) Section 133(2), ‘section 131(3)(c)’—

*omit, insert—*

‘section 131(3)(e) or 132(2)(b)(iii)’.

(2) Section 133(3)—

*omit.*

**18 Amendment of s 139 (Summary proceedings for offences)**

Section 139(2)—

*omit, insert—*

‘(2) The proceeding must start within the later of the following periods to end—

(a) 1 year after the commission of the offence;

(b) 6 months after the commission of the offence comes to the complainant’s knowledge, but within 2 years after the commission of the offence.’.

**19 Amendment of pt 11, div 2 hdg (Transitional provisions)**

Part 11, division 2, heading, after ‘provisions’—

*insert—*

‘for Act No. 54 of 2002’.

**20 Insertion of new pt 11, div 4**

After section 166—

*insert—*

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**‘Division 4                      Transitional provision for  
Professional Engineers and Other  
Legislation Amendment Act 2008,  
part 2**

**‘167      Certain decisions made under part 6A to have effect  
from 1 July 2008**

‘A decision of the Minister, made before 1 July 2008, under section 112J to grant an application for approval of a proposed assessment scheme, has effect from 1 July 2008.’

**21            Amendment of sch 2 (Dictionary)**

(1) Schedule 2, definitions *affected by bankruptcy action* and *area of engineering*—

*omit.*

(2) Schedule 2—

*insert—*

*‘accepted representations*, for part 6A, division 7, see section 112R.

*affected by bankruptcy action*, in relation to an individual, means the individual is an insolvent under administration within the meaning of the Corporations Act, section 9.

*application for approval*, for part 6A, see section 112A.

*application for renewal*, for part 6A, see section 112A.

*application for variation*, for part 6A, see section 112A.

*area of engineering*—

(a) generally—means an area of engineering prescribed under a regulation; and

(b) for part 6A—see section 112A.

*assessment scheme*, for part 6A, see section 112A.

[s 21]

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**proposed action**, for part 6A, division 7, see section 112Q(1)(b).

**relevant person**, for part 2, division 8, see section 35A(1).

**RPEQ registration number** means the number assigned to a registered professional engineer on the engineer's certificate of registration.

**show cause notice**, for part 6A, division 7, see section 112Q(2).

**show cause period**, for part 6A, division 7, see section 112Q(2)(e).

**suitable for approval**, for part 6A, see section 112A.'.

- (3) Schedule 2, definition *assessment entity*—

*insert*—

'(c) for part 6A—see section 112A.'.

- (4) Schedule 2, definition *contact details*, 'the engineer'—

*omit, insert*—

'the engineer and the engineer's RPEQ registration number'.

- (5) Schedule 2, definition *prescriptive standard*, example—

*omit, insert*—

'Examples—

- AS1684 — Timber framing code, published by Standards Australia.
- AS/NZS 3000:2007 — Electrical installations (known as the Australian/New Zealand Wiring Rules), published by Standards Australia.'.

- (6) Schedule 2, definition *professional engineering service*, 'may be provided'—

*omit, insert*—

'is provided only'.

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## **Part 3**                              **Amendments of Professional Engineers Act 2002 commencing on 1 July 2008**

### **22      Act amended in pt 3**

This part amends the *Professional Engineers Act 2002*.

### **23      Insertion of new s 7A**

Part 1, division 4, after section 7—

*insert—*

#### **‘7A      Areas of engineering**

‘(1) The *areas of engineering* for this Act are the areas of engineering for which—

- (a) there is an assessment scheme; or
- (b) qualifications and competencies are prescribed under section 10(1)(b).

‘(2) The board must keep published, on the board’s website on the internet, the areas of engineering.

*Editor’s note—*

The board’s website on the internet is <www.bpeq.qld.gov.au>.’.

### **24      Amendment of s 8 (Applying for registration)**

Section 8(2)(b)(ii)—

*omit, insert—*

- ‘(ii) if there is an assessment scheme approved for the area of engineering the applicant is applying to be registered in—the assessment entity’s assessment of the applicant against the qualifications and competencies provided for under the scheme;’.

[s 25]

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**25 Amendment of s 10 (When applicant is qualified for registration)**

(1) Section 10(1)—

*omit, insert—*

‘(1) An applicant for registration is qualified for registration in an area of engineering if the applicant has the qualifications and competencies—

(a) if there is an assessment scheme for the area of engineering—provided for under the assessment scheme; or

(b) otherwise—prescribed under a regulation for the area of engineering.’.

(2) Section 10(2), ‘subsection (1)(b)’—

*omit, insert—*

‘subsection (1)’.

(3) Section 10(2)(a) and (b), ‘each’—

*omit, insert—*

‘the’.

(4) Section 10(3)—

*omit.*

**26 Amendment of s 11 (Fitness to practise as a registered professional engineer)**

(1) Section 11(e)—

*renumber* as section 11(f).

(2) Section 11—

*insert—*

‘(e) if the applicant has been required to undergo a health assessment under section 35E—

(i) whether the applicant underwent the assessment;  
or



- (ii) whether the applicant cooperated with the doctor appointed to conduct the assessment;’.

**27 Amendment of s 12 (Deciding application)**

- (1) Section 12(2), ‘entity, given’—  
*omit, insert—*  
‘entity, if any, given’.
- (2) Section 12(2), from ‘applicant, about’—  
*omit, insert—*  
‘applicant under section 8(2)(b)(ii).’.

**28 Amendment of s 13 (Grant of application)**

- (1) Section 13(2)—  
*renumber* as section 13(4).
- (2) Section 13—  
*insert—*
- ‘(2) The board may, in granting the application, decide to impose conditions on the applicant’s registration that are reasonable and relevant.
- ‘(3) If the board decides to impose conditions on the applicant’s registration, the board must as soon as practicable give the applicant an information notice about the decision.’.

**29 Replacement of s 16 (Meaning of *continuing competency requirements*)**

Section 16—  
*omit, insert—*

**‘16 Meaning of *continuing registration requirements***

- ‘(1) *Continuing registration requirements* are requirements that, if satisfied, demonstrate that an applicant for renewal or restoration of registration has maintained competency in the

[s 29]

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practice of engineering in the area of engineering for which the applicant is, or was, registered.

- ‘(2) The requirements may include requirements about the following for an area of engineering—
  - (a) the nature, extent and period of practice of engineering by the applicant;
  - (b) the nature and extent of continuing professional development to be undertaken by the applicant;
  - (c) the nature and extent of research, study or teaching, relating to engineering, to be undertaken by the applicant;
  - (d) the nature and extent of administrative work, relating to engineering, to be performed by the applicant.
- ‘(3) The requirements are met by—
  - (a) if the applicant is registered with an assessment entity for participation in the continuing registration requirements of an assessment scheme conducted by the entity—complying with the continuing registration requirements of the assessment scheme; or
  - (b) otherwise—complying with the board’s continuing registration requirements for the area of engineering for which the applicant is, or was, registered.
- ‘(4) An assessment entity must—
  - (a) keep published the continuing registration requirements of each of the entity’s assessment schemes on the entity’s website on the internet; and
  - (b) ensure the continuing registration requirements of each of the entity’s assessment schemes are readily available to any registered professional engineer on request.
- ‘(5) The board must—
  - (a) keep published the board’s continuing registration requirements on the board’s website on the internet; and

- (b) keep the requirements available for inspection, without charge, during normal business hours at the board's office; and
- (c) if asked by a person and on payment of the fee, if any, prescribed under a regulation, give the person a copy of the requirements.

*Editor's note—*

The board's website on the internet is <[www.bpeq.qld.gov.au](http://www.bpeq.qld.gov.au)>.

### **30 Amendment of s 18 (Applying for renewal)**

- (1) Section 18(3)(b)(i)—  
*omit.*
- (2) Section 18(3)(b)(ii), 'any other'—  
*omit, insert—*  
'the'.
- (3) Section 18(3)(b)(ii) and (iii)—  
*renumber* as section 18(3)(b)(i) and (ii).

### **31 Amendment of s 20 (Deciding application)**

- (1) Section 20(2)(b), 'competency'—  
*omit, insert—*  
'registration'.
- (2) Section 20(4)—  
*omit.*
- (3) Section 20(5)—  
*renumber* as section 20(4).

### **32 Amendment of s 21 (Renewal of registration)**

Section 21—

[s 33]

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*insert—*

- ‘(2) The board may, in renewing the applicant’s registration, decide to impose conditions on the applicant’s registration that are reasonable and relevant.
- ‘(3) If the board decides to impose conditions on the registration, the board must as soon as practicable give the applicant an information notice about the decision.’.

### **33 Amendment of s 23 (Applying for restoration)**

- (1) Section 23(2)(b)(i)—

*omit.*

- (2) Section 23(2)(b)(ii), ‘any other’—

*omit, insert—*

‘the’.

- (3) Section 23(2)(b)(ii) to (iv)—

*renumber* as section 23(i) to (iii)

### **34 Amendment of s 24 (Deciding application)**

- (1) Section 24(2)(b), ‘competency’—

*omit, insert—*

‘registration’.

- (2) Section 24(4)—

*omit.*

- (3) Section 24(5)—

*renumber* as section 24(4).

### **35 Amendment of s 25 (Restoration of registration)**

- (1) Section 25(2)—

*renumber* as section 25(4).

(2) Section 25—

*insert—*

- ‘(2) The board may, in restoring the applicant’s registration, decide to impose conditions on the registration that are reasonable and relevant.
- ‘(3) If the board decides to impose conditions on the applicant’s registration, the board must as soon as practicable give the applicant an information notice about the decision.’

### **36 Insertion of new pt 2, div 5A**

Part 2, after division 5—

*insert—*

## **‘Division 5A Further conditions imposed on registration**

### **‘27A Imposition of certain conditions on registration**

- ‘(1) The board may impose the following conditions on a registered professional engineer’s registration—
  - (a) if a health assessor recommends, under section 35G(2)(b), that a condition be imposed on the engineer’s registration—a condition that is reasonable and relevant having regard to the health assessor’s recommendation;
  - (b) if the board decides, under section 73(2)(d), to impose a condition on an engineer’s registration—the condition agreed to by the engineer.
- ‘(2) If the board imposes a condition on a registered professional engineer’s registration under this section, the board must give the engineer—
  - (a) a notice (the *warning notice*) stating that the registered professional engineer must return the engineer’s certificate of registration to the board within 21 days after receiving the notice; and

[s 37]

---

- (b) for a condition mentioned in subsection (1)(a)—an information notice for the decision.
- ‘(3) A condition imposed under this section has effect when the warning notice is given to the registered professional engineer and does not depend on the condition being noted on the engineer’s certificate of registration.’

**37 Amendment of pt 2, div 6 hdg (Cancellation of registrations)**

Part 2, division 6, heading, ‘of’—

*omit, insert—*

**‘and immediate suspension of’.**

**38 Amendment of s 28 (Grounds for cancellation)**

Section 28—

*insert—*

- ‘(d) the registered professional engineer’s registration to practise as a professional engineer under a law applying, or that applied, in the Commonwealth, another State or a foreign country has been cancelled under that law for disciplinary reasons; or
- (e) the registered professional engineer’s membership of an association of professional engineers, whether in Australia or a foreign country, has been cancelled under the association’s rules for disciplinary reasons; or
- (f) the registered professional engineer has contravened a condition of the engineer’s registration; or
- (g) the assessment in a health assessment report given to the board under section 35G is that the engineer is currently unable to competently and safely practise as a registered professional engineer.’

---

**39 Insertion of new s 29A**

Part 2, division 6, after section 29—

*insert—*

**‘29A Immediate suspension of registration**

- ‘(1) This section applies if the board requires a registered professional engineer to undergo a health assessment under section 35E and the engineer does not undergo the health assessment as required or does not cooperate with the doctor appointed to conduct the assessment.
- ‘(2) The board may, by information notice given to the registered professional engineer, immediately suspend the engineer’s registration.
- ‘(3) The information notice must also state the period of suspension.
- ‘(4) The suspension—
  - (a) may be for the period the board decides; and
  - (b) has effect immediately when the notice is given.
- ‘(5) The board must end the suspension if satisfied that the ground for the suspension no longer exist.
- ‘(6) The suspension ends if the registered professional engineer’s registration is cancelled or otherwise ends.’.

**40 Amendment of pt 2, div 7 hdg (Offences about registration)**

Part 2, division 7, heading, ‘about registration’—

*omit.*

**41 Insertion of new ss 32A–32C**

Part 2, division 7, after section 32—

*insert—*

[s 41]

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### **‘32A Notification of disciplinary action by other bodies**

- ‘(1) A registered professional engineer must advise the board about any disciplinary action (the *event*) taken against the engineer in another State or a foreign country in relation to the engineer’s practice as an engineer, within 21 days after the event, unless the engineer has a reasonable excuse.

Maximum penalty—50 penalty units.

- ‘(2) For subsection (1) it is immaterial whether or not the disciplinary action happened under a law of the other State or country, or under the rules of an association of professional engineers.

### **‘32B Notification of inability to practise**

- ‘(1) This section applies if a registered professional engineer has been unable to competently and safely practise as a registered professional engineer for a continuous period of 3 months because of the engineer’s mental or physical health.

- ‘(2) The engineer must immediately notify the board in writing of that fact, unless the engineer—

- (a) has already notified the board in writing of the incapacity; or  
(b) has a reasonable excuse.

Maximum penalty—50 penalty units.

### **‘32C Amending or replacing certificates of registration after certain conditions imposed**

- ‘(1) This section applies if—
- (a) a registered professional engineer receives a warning notice under section 27A; or  
(b) the tribunal makes an order imposing a condition on the engineer’s registration under section 131(3)(b).

- ‘(2) The engineer must return the engineer’s certificate of registration to the board within 21 days after receiving the



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warning notice or the tribunal makes the order, unless the engineer has a reasonable excuse.

Maximum penalty—50 penalty units.

- ‘(3) On receiving the certificate, the board must—
- (a) amend the certificate appropriately and return it to the engineer; or
  - (b) issue another certificate of registration to the engineer to replace the certificate returned to the board.
- ‘(4) In this section—  
*warning notice* see section 27A(2)(a).’.

## **42 Insertion of new s 35C**

Part 2, division 8, after section 35B—

*insert—*

### **‘35C Information about relevant persons from assessment entities**

- ‘(1) The board may ask an assessment entity for information, about a relevant person, relating to the practice of professional engineering.
- ‘(2) If asked by the board, the assessment entity must give the board the information mentioned in subsection (1) to which the entity has access.

*Note—*

Contravention of this provision is a ground for cancelling or suspending the approval of an assessment scheme.

- ‘(3) An assessment entity that, honestly and on reasonable grounds, gives information to the board under subsection (2) is not subject to any liability for giving the information and no action, claim or demand may be taken or made of or against the entity for giving the information.
- ‘(4) Information obtained under this section may only be used for the purposes of this Act.’.

[s 43]

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### **43 Insertion of new pt 2A**

After section 35C, as inserted by this Act—

*insert—*

## **‘Part 2A Health assessments**

### **‘35D Definitions for pt 2A**

‘In this part—

*health assessment report* see section 35G(1).

*subject engineer* see section 35E(1).

### **‘35E Health assessment**

- ‘(1) This section applies if the board reasonably believes a registered professional engineer (the *subject engineer*) is unable to competently and safely practise as a registered professional engineer because of the engineer’s mental or physical health.
- ‘(2) The board may require the subject engineer to undergo a health assessment by a doctor (the *health assessor*) appointed by the board.
- ‘(3) If the board decides to require a health assessment, the board must give the subject engineer an information notice about the decision to require the assessment that includes—
  - (a) a stated date, time and place, for the assessment; and
  - (b) the name and qualifications of the health assessor appointed by the board to conduct the assessment; and
  - (c) the possible consequences of failing to undergo, or cooperate during, the assessment.
- ‘(4) The stated date must be no sooner than 14 days after the information notice is given to the subject engineer unless the engineer and the board agree, in writing, to an earlier date.

- 
- ‘(5) The stated time and place must be reasonable having regard to the circumstances of the subject engineer as known to the board.

**‘35F Appointment of health assessor**

‘Before appointing a doctor as a health assessor, the board must be satisfied the doctor does not have a personal or professional connection with the subject engineer that may prejudice the way in which the doctor conducts the assessment.

**‘35G Health assessment report**

- ‘(1) A health assessor conducting all or part of a health assessment of a subject engineer must prepare a report about the assessment (*health assessment report*).
- ‘(2) The health assessment report must include—
- (a) the health assessor’s findings as to whether the subject engineer is currently unable to competently and safely practise as a registered professional engineer; and
  - (b) if the health assessor finds that the subject engineer is unable to competently and safely practise as a registered professional engineer—the health assessor’s recommendations as to any conditions that could be imposed on the engineer’s registration to overcome the inability.
- ‘(3) The health assessor must give the health assessment report to the board and a copy to the subject engineer.

**‘35H Payment for health assessment and report**

- ‘(1) The board is liable for the cost of the health assessment and the preparation of the health assessment report.
- ‘(2) However, if the assessment is that the subject engineer is currently unable to competently and safely practise as a registered professional engineer, the board may require the

[s 43]

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engineer, by notice, to pay the board the amount of the cost of the assessment and of the preparation of the health assessment report.

- ‘(3) The amount mentioned in subsection (2) is a debt payable to the board.

### ‘351 Use of health assessment report

- ‘(1) A health assessment report is not admissible in any proceeding, and a person can not be compelled to produce the report or to give evidence about the report or its contents in any proceeding.

- ‘(2) Subsection (1) does not apply in relation to—

(a) a proceeding relating to an application by the subject engineer to whom the report relates for registration as, or renewal or restoration of registration as, a registered professional engineer under this Act; or

(b) a proceeding on an appeal by the subject engineer against a decision of the board—

(i) refusing to grant, renew or restore registration; or

(ii) cancelling or immediately suspending registration.

- ‘(3) Also, subsection (1) does not apply if the report is admitted or produced, or evidence about the report or its contents is given, in a proceeding with the consent of—

(a) the health assessor who prepared the report; and

(b) the registered professional engineer to whom the report relates.

- ‘(4) A health assessment report may only be used for the purposes of this Act and must be destroyed as soon as practicable after it is no longer needed for those purposes.

- ‘(5) In this section—

*health assessment report* includes a copy of the report or a part of the report or copy.’.

---

**44 Amendment of s 36 (Grounds for disciplining a registered professional engineer)**

Section 36—

*insert—*

- ‘(d) the engineer has contravened an undertaking entered into by the engineer and the board under section 73(2)(b);
- (e) the engineer has contravened a condition of the engineer’s registration.’.

**45 Amendment of s 73 (Board’s decision on investigation about registered professional engineer)**

(1) Section 73(2), ‘1 of’—

*omit, insert—*

‘1 or more of’.

(2) Section 73(2)(b)—

*omit, insert—*

‘(b) enter into an undertaking agreed with the registered professional engineer about a matter relating to the engineer carrying out professional engineering services, including, for example, to submit to an audit of the engineer’s practice of engineering;’.

(3) Section 73(2)(d)—

*omit, insert—*

- ‘(d) impose a condition, agreed to by the registered professional engineer, on the engineer’s registration;
- (e) take no further action about the matter the subject of the investigation.’.

(4) Section 73—

*insert—*

[s 46]

---

‘(2A) If the engineer does not comply with an undertaking entered into under subsection (2)(b), the board may decide to take another action mentioned in subsection (2).’.

(5) Section 73(4), ‘(2)(a), (b) or (c)’—

*omit, insert—*

‘(2)(a) to (d)’.

(6) Section 73(5), ‘(2)(b), (c) or (d)’—

*omit, insert—*

‘(2)(b) to (e)’.

**46 Amendment of s 74 (Notice of result of investigation about registered professional engineer)**

Section 74(3), ‘73(2)(d)’—

*omit, insert—*

‘73(2)(e)’.

**47 Insertion of new s 74A**

After section 74—

*insert—*

**‘74A Publishing of certain decisions on investigation about registered professional engineer**

‘(1) This section applies if the board decides—

(a) to caution or reprimand a registered professional engineer under section 73(2)(c); or

(b) to impose a condition on a registered professional engineer’s registration under section 73(2)(d).

‘(2) The board may notify the decision, and reasons for the decision, on the board’s website on the internet.

‘(3) The board must not act under subsection (2) until the particulars of the decision are included in the register under section 102.’.

**48 Amendment of s 75 (Board's decision about other investigations)**

(1) Section 75(2)(b) and (c)—

*omit.*

(2) Section 75(2)(d)—

*renumber* as section 75(2)(b).

(3) Section 75(4)—

*omit.*

**49 Amendment of s 76 (Board to take action as soon as practicable)**

Section 76, '73(2)(a) to (c), or (4), or section 75(2)(a) to (c),'—

*omit, insert—*

'73(2)(a) to (d), or (4), or section 75(2)(a),'.

**50 Amendment of s 80 (Functions of board)**

(1) Section 80(1)(e)(ii)—

*omit, insert—*

'(ii) the suitability of assessment schemes for approval;  
and'.

(2) Section 80(2), from '(1)(e)(i)'—

*omit, insert—*

'(1)(e)(i).'

**51 Amendment of s 102 (Keeping register)**

(1) Section 102(3)(e) to (h)—

*renumber* section 102(3)(g) to (j).

(2) Section 102(3)—

[s 52]

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*insert—*

‘(e) if the person’s registration is subject to a condition—particulars of the condition;

(f) if the board cautions or reprimands the person under section 73(2)(c)—particulars of the caution or reprimand;’.

(3) Section 102(5), from ‘(g)’ to ‘registration’—

*omit, insert—*

‘(i) for a relevant decision of the board’.

(4) Section 102(6), from ‘a decision’ to ‘(3)(e) to (g)’—

*omit, insert—*

‘a relevant decision of the board, the particulars mentioned in subsection (3)(e) to (i)’.

(5) Section 102—

*insert—*

‘(7) In this section—

***relevant decision***, of the board, means a decision of the board to—

(a) impose a condition on a person’s registration; or

(b) caution or reprimand a person; or

(c) cancel, or refuse to renew or restore, a person’s registration.’.

## **52 Amendment of s 112A (Definitions for pt 6A)**

Section 112A, definitions *area of engineering, assessment entity* and *assessment scheme*—

*omit.*



**53 Amendment of s 112B (Suitability of assessment schemes for approval)**

Section 112B(2)—

*omit.*

**54 Amendment of s 112C (Application for approval)**

Section 112C(1), ‘engineering to’—

*omit, insert—*

‘engineering, or proposed areas of engineering, to’.

**55 Amendment of s 115 (Who may carry out professional engineering services)**

(1) Section 115(2) and (4), before ‘supervision’—

*insert—*

‘direct’.

(2) Section 115(2), ‘engineer.’—

*omit, insert—*

‘engineer who is responsible for the services.’.

(3) Section 115(4), ‘engineering.’—

*omit, insert—*

‘engineering and responsible for the services.’.

(4) Section 115—

*insert—*

‘(5) For this section, a person carries out professional engineering services under the direct supervision of a registered professional engineer only if the engineer directs the person in the carrying out of the services and oversees and evaluates the carrying out of the services by the person.’.

[s 56]

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**56 Omission of ss 116–119**

Sections 116 to 119—

*omit.*

**57 Amendment of s 122 (Review of particular decisions)**

Section 122(2)(c) to (e)—

*omit, insert—*

- ‘(c) a person whose registration is subject to conditions imposed by the board under section 13(2), 21(2), 25(2) or 27A(1)(a);
- (d) a person whose registration is cancelled under section 29(3);
- (e) a person whose registration is immediately suspended under section 29A(2);
- (f) a person who is required to undergo a health assessment under section 35E(2);
- (g) a person who, under section 73(2)(c), has been cautioned or reprimanded;
- (h) a person who makes a complaint if the board decides, under section 73(2)(e), to take no further action about the complaint.’

**58 Amendment of s 124 (Stay of operation of decision)**

Section 124(b)—

*omit, insert—*

- ‘(b) a decision, under section 29A(2), immediately suspending a person’s registration; or
- (c) a decision, under section 29(3), cancelling a person’s registration; or
- (d) a decision, under section 35E(2), requiring a person to undergo a health assessment.’

**59 Amendment of s 138 (Evidentiary matters)**

Section 138(f) and (g), after ‘registration’—

*insert—*

‘or approval’.

**60 Amendment of s 141 (Performance and carrying out of professional engineering services by particular entities)**

(1) Section 141(1)(b)(ii)—

*omit, insert—*

‘(ii) the services are not carried out by or under the direct supervision of a registered professional engineer who is responsible for the services.’.

(2) Section 141—

*insert—*

‘(3) For this section a person carries out professional engineering services under the direct supervision of a registered professional engineer only if the engineer directs the person in the carrying out the services and oversees and evaluates the carrying out of the services by the person.’.

**61 Amendment of s 164 (Continuing effect of qualifications under the repealed Act)**

Section 164(1)(b)—

*omit, insert—*

‘(b) only before 1 July 2008.’.

**62 Insertion of new pt 11, div 5**

After section 167—

*insert—*

[s 62]

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**‘Division 5                      Transitional provisions for  
Professional Engineers and Other  
Legislation Amendment Act 2008,  
part 3**

**‘168    Definitions for this division**

‘In this division—

*commencement* means the commencement of this division.

*pre-amended Act* means this Act as in force immediately before the commencement.

*preserved area of engineering* means the following areas of engineering under the pre-amended Act—

- (a) aeronautical engineering;
- (b) agricultural engineering;
- (c) chemical engineering;
- (d) civil engineering;
- (e) computer systems engineering;
- (f) electrical engineering;
- (g) mechanical engineering;
- (h) metallurgical engineering;
- (i) mining engineering;
- (j) naval architectural engineering.

**‘169    Certain applications to be dealt with under  
pre-amended Act**

‘(1) This section applies to any of the following applications if the application was made to the board, and not finally dealt with, before the commencement—

- (a) an application for registration under the pre-amended Act, section 8;

- 
- (b) an application for renewal of registration under the pre-amended Act, section 18;
  - (c) an application for restoration of registration under the pre-amended Act, section 23.
- ‘(2) The pre-amended Act continues to apply to the application for the purpose of making a decision about the application.

**‘170 Continuing registration requirements for preserved areas of engineering**

- ‘(1) This section applies for the purpose of having continuing registration requirements for a preserved area of engineering.
- ‘(2) A reference in section 16 to an area of engineering is taken to include a reference to a preserved area of engineering.

**‘171 Application of preserved areas of engineering to certain provisions**

- ‘(1) This section applies to the following registered professional engineers if the engineer is registered for a preserved area of engineering—
- (a) an engineer who was registered before the commencement;
  - (b) an engineer who, under section 169, was registered after the commencement.
- ‘(2) For sections 34(2)(b) and 115(3), the preserved area of engineering for which the engineer is registered is taken to be the area of engineering for which the engineer is registered.’.

**63 Amendment of sch 2 (Dictionary)**

- (1) Schedule 2, definitions *area of engineering*, *assessment entity*, *assessment scheme* and *complainant*—  
*omit.*
- (2) Schedule 2—

[s 64]

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*insert—*

**‘areas of engineering** see section 7A(1).

**assessment entity**, in relation to an assessment scheme, means the entity for which the scheme was approved.

**assessment scheme** means a scheme approved under part 6A.

**complainant**, other than in section 139, means the person who makes the complaint.

**health assessment**, in relation to a registered professional engineer, includes—

- (a) a physical, medical or psychiatric examination or test of the engineer; and
- (b) asking questions to assess the engineer’s mental and physical health.

**health assessment report**, for part 2A, see section 35D.

**health assessor** see section 35E(2).

**subject engineer**, for part 2A, see section 35D.’.

- (3) Schedule 2, definition *continuing competency requirements*, ‘competency’—

*omit, insert—*

**‘registration’.**

## **Part 4   Amendment of Electrical Safety Act 2002**

### **64           Act amended in pt 4**

This part amends the *Electrical Safety Act 2002*.

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**65 Amendment of sch 2 (Dictionary)**

- (1) Schedule 2, definitions *electrical engineer* and *Engineers Act*—  
*omit.*
- (2) Schedule 2—  
*insert—*  
*‘electrical engineer* means—
- (a) a person who is a registered professional engineer under the *Professional Engineers Act 2002* and who is registered in the area or preserved area of electrical engineering under that Act; or
- (b) a person who held a degree in electrical engineering granted by—
- (i) an approved school of engineering under the repealed *Professional Engineers Act 1988*; or
- (ii) an approved faculty of engineering under the repealed *Professional Engineers Act 1988*;  
before the repeal of that Act and who continues to hold the degree; or
- (c) a person who held, immediately before the commencement of the *Professional Engineers and Other Legislation Amendment Act 2008*, and continues to hold, a qualification in electrical engineering granted by a tertiary education institution that entitled the person to be admitted to the Institution of Engineers Australia, as a graduate member.’.

## Part 5 **Amendment of Public Records Act 2002**

### 66 **Act amended in pt 5**

This part amends the *Public Records Act 2002*.

### 67 **Amendment of s 6 (What is a public record)**

(1) Section 6(1)(a) and (b), after ‘Minister’—

*insert—*

‘or Parliamentary Secretary’.

(2) Section 6(1)—

*insert—*

‘(d) a record of a Parliamentary Secretary.’.

### 68 **Amendment of s 16 (Meaning of *restricted access period*)**

Section 16(1)—

*omit, insert—*

‘(1) Subject to subsection (2), the ***restricted access period***, for the following records starts on the day the record is made and ends 30 years after the day of the last action on the record—

(a) a public record classified by a public authority as containing potentially exempt matter mentioned in section 36 or 37 of the FOI Act;

*Editor’s Note—*

FOI Act, section 36 (Cabinet matter) or 37 (Executive Council matter)

(b) a Ministerial record;

(c) a record of a Parliamentary Secretary.’.



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**69 Amendment of sch 2 (Dictionary)**

(1) Schedule 2—

*insert—*

***‘Parliamentary Secretary*** means a member of the Legislative Assembly appointed as a Parliamentary Secretary under the *Constitution of Queensland 2001*, section 24.

***record of a Parliamentary Secretary*** means a record created or received by a Parliamentary Secretary in the course of carrying out the Parliamentary Secretary’s official duties but does not include—

- (a) a record related to the Parliamentary Secretary’s personal or party political activities; or
- (b) a record the Parliamentary Secretary holds in the Parliamentary Secretary’s capacity as a member of the Legislative Assembly.’.

(2) Schedule 2, definition *public authority*, paragraphs (d) to (k)—

*renumber* as paragraphs (e) to (l).

(3) Schedule 2, definition *public authority*—

*insert—*

‘(d) a Parliamentary Secretary; or’.