

Queensland



# **PROFESSIONAL ENGINEERS ACT 2002**

**Reprinted as in force on 1 November 2002  
(Act not amended up to this date)**

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**Reprint No. 0A**

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# Queensland



## PROFESSIONAL ENGINEERS ACT 2002

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# PROFESSIONAL ENGINEERS ACT 2002<sup>1</sup>

[reprinted as in force on 1 November 2002]

## **An Act to provide for the registration of professional engineers, and for other purposes**

### **PART 1—PRELIMINARY**

#### *Division 1—Introduction*

#### **1 Short title**

This Act may be cited as the *Professional Engineers Act 2002*.

#### **2 Commencement**

(1) The following provisions of this Act commence on assent—

- (a) part 1, division 4;
- (b) part 11, division 2, subdivision 1;
- (c) section 150;

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<sup>1</sup> This Act (other than sections 1–2, part 1, division 4, part 11, division 2, subdivision 1, section 150 and schedule 2) had not commenced on or before the reprint date.

(d) schedule 2.

(2) The remaining provisions of this Act commence on 1 January 2003.

### ***Division 2—Objects***

#### **3 Main objects of Act**

*The main objects of this Act are—*

- (a) to protect the public by ensuring professional engineering services are provided by a registered professional engineer in a professional and competent way; and*
- (b) to maintain public confidence in the standard of services provided by registered professional engineers; and*
- (c) to uphold the standards of practice of registered professional engineers.*

#### **4 How main objects are achieved**

*The main objects are to be achieved primarily by—*

- (a) providing for the registration of individuals as registered professional engineers under this Act; and*
- (b) providing for the monitoring and enforcement of compliance with this Act; and*
- (c) imposing obligations on persons about the practice of engineering; and*
- (d) establishing the Board of Professional Engineers of Queensland.*

### ***Division 3—Application of Act***

#### **5 Act binds all persons**

(1) *This Act binds all persons, including the State.*

(2) *Subsection (1) does not make the State liable to be prosecuted for an offence.*

## **6 Mutual recognition legislation not affected**

*This Act does not affect the operation of the Mutual Recognition (Queensland) Act 1992 or the Trans-Tasman Mutual Recognition (Queensland) Act 1999.*

### ***Division 4—Interpretation***

## **7 Definitions**

The dictionary in schedule 2 defines particular words used in this Act.

## ***PART 2—REGISTRATION OF PROFESSIONAL ENGINEERS***

### ***Division 1—Preliminary***

## **8 Applying for registration**

*(1) Only an individual may apply to the board for registration as a registered professional engineer for an area of engineering.*

*(2) The application must be—*

- (a) in the approved form; and*
- (b) accompanied by each of the following—*
  - (i) satisfactory evidence of the applicant's eligibility for registration;*
  - (ii) if an assessment entity is prescribed under section 10(3) for assessing an individual against the qualifications or competencies provided for under section 10(1)—an assessment entity's assessment of the applicant against the qualifications or competencies;*

- (iii) *any other documents, identified in the approved form, the board reasonably requires to decide the application;*
- (iv) *the application fee and registration fee prescribed under a regulation.*

*(3) The approved form must provide for the inclusion of the applicant's contact details as a registered professional engineer.*

*(4) The applicant also must provide any other relevant information reasonably required by the board to decide the application.<sup>2</sup>*

### ***Division 2—Eligibility for registration***

#### **9 Eligibility**

*An applicant for registration is eligible for registration only if—*

- (a) *the applicant is qualified, under section 10, for registration; and*
- (b) *the board considers the applicant is fit to practise as a registered professional engineer.*

#### **10 When applicant is qualified for registration**

*(1) An applicant for registration is qualified for registration if the applicant has—*

- (a) *the qualifications provided for under a regulation; and*
- (b) *the competencies in the practice of engineering provided for under a regulation.*

*(2) The competencies mentioned in subsection (1)(b)—*

- (a) *may relate to the practice of engineering in each area of engineering; and*
- (b) *may include requirements about the following for each area of engineering—*
  - (i) *the nature, extent and period of practice of engineering by the applicant;*

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<sup>2</sup> For how the board may make a requirement for information under section 8(4), 18(6) or 23(5), see section 27 (Lapsing of application).

- (ii) *the nature and extent of any research, study or teaching, relating to engineering, undertaken by the applicant;*
- (iii) *the nature and extent of any administrative work, relating to engineering, performed by the applicant.*

(3) *A regulation may prescribe an entity (an “assessment entity”) for assessing an applicant against the qualifications or competencies.*

### ***11 Fitness to practise as a registered professional engineer***

*In deciding whether an applicant for registration is fit to practise as a registered professional engineer, the board may have regard to each of the following—*

- (a) *whether the applicant has a conviction, other than a spent conviction, for—*
  - (i) *an indictable offence; or*
  - (ii) *an offence against this Act or the repealed Act; or*
  - (iii) *another offence, relating to the practice of engineering, against a law applying, or that applied, in the State, the Commonwealth, another State or a foreign country;*
- (b) *if the applicant has been registered under this Act or the repealed Act, or registered to practise as a professional engineer under a law applying, or that applied, in the Commonwealth, another State or a foreign country and the registration was suspended or cancelled—the reason for its suspension or cancellation;*
- (c) *if the applicant has been registered under this Act or the repealed Act—any order about the applicant given under section 131 or 132<sup>3</sup> of this Act, or section 60<sup>4</sup> of the repealed Act;*
- (d) *whether the applicant—*
  - (i) *is affected by bankruptcy action; or*
  - (ii) *is an executive officer of a corporation affected by control action after the commencement of this section;*

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3 Section 131 (Orders relating to registered professional engineer) or 132 (Orders relating to former registered professional engineer)

4 The repealed Act, section 60 (Disciplinary panel may order cancellation of registration etc.)

- (e) *any other issue relevant to the applicant's ability to competently practise as a registered professional engineer; including, for example, the applicant's mental or physical health.*

### ***Division 3—Decision on applications for registration***

#### **12 Deciding application**

*(1) The board must consider each application for registration made under section 8 and either grant or refuse to grant the application as soon as practicable after the last of the following events to happen—*

- (a) the board receives the application;*
- (b) the board receives all necessary information to decide the application.*

*(2) In deciding the application, the board must have regard to the assessment of an assessment entity, given to the board by the applicant, about whether the applicant has the qualifications or competencies provided for under section 10(1).*

#### **13 Grant of application**

*(1) If the board decides to grant the application, it must as soon as practicable—*

- (a) register the applicant as a registered professional engineer in 1 or more of the areas of engineering for which the applicant is qualified for registration; and*
- (b) give the applicant a certificate of registration.*

*(2) In deciding the areas of engineering for which an applicant may be registered, the board must have regard to the applicant's qualifications and competencies in the practice of engineering.*

#### **14 Refusal of application**

*If the board decides to refuse to grant the application, it must as soon as practicable—*

- (a) give the applicant an information notice for the decision; and*



- (b) *refund the fees that accompanied the application less a reasonable amount, if any, prescribed under a regulation for processing the application.*

### **15 Period of registration**

(1) *The period of registration that is to apply to a registered professional engineer (the “**registration period**”) is a financial year.*

(2) *If the board decides to register an applicant during a registration period, the registration remains in force for the period—*

- (a) *commencing on the day when the board makes the decision; and*  
(b) *ending on the last day of the registration period.*

## **Division 4—Renewal and restoration of registrations**

### **Subdivision 1—Preliminary**

### **16 Meaning of “continuing competency requirements”**

(1) *“**Continuing competency requirements**” are requirements, provided for under a regulation, that 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.*

(2) *The requirements may include requirements about the following for each area of engineering—*

- (a) *the nature, extent and period of practice of engineering by the applicant;*  
(b) *the nature and extent of any continuing professional development undertaken by the applicant;*  
(c) *the nature and extent of any research, study or teaching, relating to engineering, undertaken by the applicant;*  
(d) *the nature and extent of any administrative work, relating to engineering, performed by the applicant.*

(3) *A regulation may prescribe an entity (an “**assessment entity**”) for assessing an applicant against the requirements.*

**17 Notification of expiry of registration**

*The board must give a registered professional engineer notice of the expiry of the engineer's registration at least 3 months before the expiry.*

**Subdivision 2—Renewal****18 Applying for renewal**

*(1) A registered professional engineer may apply to the board for renewal of the professional engineer's registration.*

*(2) The application may only be made at least 1 month, but not more than 3 months, before the last day of the registration period (the “expiry day”).*

*(3) The application must be—*

*(a) in the approved form; and*

*(b) accompanied by each of the following—*

*(i) if an assessment entity is prescribed under section 16(3)—an assessment entity's assessment of the applicant against the continuing competency requirements;*

*(ii) any other documents, identified in the approved form, the board reasonably requires to decide the application;*

*(iii) the annual registration fee.*

*(4) Despite subsection (2), the board may accept an application for renewal of registration made within 1 month before the expiry day if the board is satisfied it would be reasonable in all the circumstances to accept the application.*

*(5) The approved form must provide for the inclusion of the applicant's contact details as a registered professional engineer.*

*(6) The registered professional engineer also must provide any other relevant information reasonably required by the board to decide the application.*

**19 Registration in force while application is considered**

*(1) If an application is made under section 18(2), or the board decides to accept an application under section 18(4), the applicant's registration is*

*taken to continue in force from the day it would, apart from this section, have expired until—*

- (a) if the board decides to renew the registration—the day a new certificate of registration is given to the applicant under section 21; or*
- (b) if the board decides to refuse to renew the registration—the day stated, under section 22(a), in the information notice for the decision; or*
- (c) if the application is taken to have lapsed under section 27—the day it is taken to have lapsed.*

*(2) Subsection (1) does not apply if the registration is earlier suspended or cancelled under this Act.*

## **20 Deciding application**

*(1) The board must consider an accepted application and either renew or refuse to renew the registration as soon as practicable after the last of the following events to happen—*

- (a) the board receives the application;*
- (b) the board receives all necessary information to decide the application.*

*(2) In deciding the application, the board must have regard to—*

- (a) whether the board considers the applicant is fit to practise as a registered professional engineer; and*
- (b) the extent, if any, to which the applicant has satisfied the continuing competency requirements.*

*(3) In considering whether an applicant is fit to practise as a registered professional engineer, the board may have regard to the same matters to which the board may have regard in deciding whether an applicant for registration is fit to practise as a registered professional engineer.<sup>5</sup>*

*(4) In considering whether an applicant has satisfied the continuing competency requirements, the board must have regard to the assessment of*

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<sup>5</sup> For the matters the board may have regard to in deciding if an applicant for registration is fit to practise as a registered professional engineer, see section 11 (Fitness to practise as a registered professional engineer).

*an assessment entity, given to the board by the applicant, about whether the applicant has satisfied the requirements.*

*(5) In this section—*

**“accepted application”** *means an application made under section 18(2) or an application the board accepts under section 18(4).*

## **21 Renewal of registration**

*If the board decides to renew the applicant’s registration, it must as soon as practicable give the applicant a new certificate of registration.*

## **22 Refusal to renew registration**

*If the board decides to refuse to renew the registration, it must as soon as practicable—*

- (a) give the applicant an information notice for the decision stating the day, not before the expiry day and not earlier than 7 days after the notice is given, on which the registration ends; and*
- (b) refund the annual registration fee that accompanied the application.*

### **Subdivision 3—Restoration**

## **23 Applying for restoration**

*(1) If a person’s registration has expired, the person may, within 2 months after the expiry, apply to the board for restoration of the registration.*

*(2) The application must be—*

- (a) in the approved form; and*
- (b) accompanied by each of the following—*
  - (i) if an assessment entity is prescribed under section 16(3)—an assessment entity’s assessment of the applicant against the continuing competency requirements;*
  - (ii) any other documents, identified in the approved form, the board reasonably requires to decide the application;*

(iii) *the annual registration fee.*

(3) *Despite subsection (1), the board may accept an application for restoration of registration made more than 2 months after the expiry if the board is satisfied it would be reasonable in all the circumstances to accept the application.*

(4) *The approved form must provide for the inclusion of the applicant's contact details as a registered professional engineer.*

(5) *The applicant also must provide any other relevant information reasonably required by the board to decide the application.*

## **24 Deciding application**

(1) *The board must consider an accepted application and either restore or refuse to restore the registration as soon as practicable after the last of the following events to happen—*

- (a) *the board receives the application;*
- (b) *the board receives all necessary information to decide the application.*

(2) *In deciding the application, the board must have regard to—*

- (a) *whether the board considers the applicant is fit to practise as a registered professional engineer; and*
- (b) *the extent, if any, to which the applicant has satisfied the continuing competency requirements.*

(3) *In considering whether an applicant is fit to practise as a registered professional engineer, the board may have regard to the same matters to which the board may have regard in deciding whether an applicant for registration is fit to practise as a registered professional engineer.*

(4) *In considering whether an applicant has satisfied the continuing competency requirements, the board must have regard to the assessment of an assessment entity, given to the board by the applicant, about whether the applicant has satisfied the requirements.*

(5) *In this section—*

**“accepted application”** *means an application made under section 23(1) or an application the board accepts under section 23(3).*

**25 Restoration of registration**

(1) *If the board decides to restore the applicant's registration, the board must as soon as practicable give the applicant a new certificate of registration.*

(2) *The registration remains in force for the period—*

- (a) *commencing on the day when the board makes the decision; and*
- (b) *ending on the last day of the registration period in which the decision is made.*

**26 Refusal to restore registration**

*If the board decides to refuse to restore the registration, it must as soon as practicable—*

- (a) *give the applicant an information notice for the decision; and*
- (b) *refund the annual registration fee that accompanied the application.*

**Division 5—Lapsing of applications****27 Lapsing of application**

(1) *This section applies if an application for registration, or renewal or restoration of registration, is made under this part.*

(2) *The board may make a requirement under section 8(4), 18(6) or 23(5) for information to decide the application by giving the applicant a notice stating—*

- (a) *the required information; and*
- (b) *the time by which the information must be given to the board; and*
- (c) *that, if the information is not given to the board by the stated time, the application will lapse.*

(3) *The stated time must be reasonable and, in any case, at least 21 days after the requirement is made.*

(4) *The board may give the applicant a further notice extending or further extending the time if the board is satisfied it would be reasonable in all the circumstances to give the extension.*

(5) *A notice may be given under subsection (4) even if the time to which it relates has lapsed.*

(6) *If the applicant does not comply with the requirement within the stated time, or any extension, the application lapses.*

(7) *If an application lapses under subsection (6), the board must, as soon as practicable after it lapses, refund the fees that accompanied the application less a reasonable amount, if any, prescribed under a regulation for processing the application.*

### ***Division 6—Cancellation of registrations***

#### **28 Grounds for cancellation**

*The board may cancel a registered professional engineer's registration if—*

- (a) the board believes on reasonable grounds the registered professional engineer was registered because of a materially false or misleading representation or document; or*
- (b) the registered professional engineer is affected by bankruptcy action; or*
- (c) the registered professional engineer is an executive officer of a corporation affected by control action after the commencement of this section.*

#### **29 Procedure for cancellation**

*(1) If the board proposes to cancel a registered professional engineer's registration, the board must give the engineer a notice stating the following—*

- (a) the board proposes to cancel the registration;*
- (b) the grounds for the proposed cancellation;*
- (c) the facts and circumstances that are the basis for the grounds;*

(d) *that the engineer may make, within a stated period, written representations to show why the registration should not be cancelled.*

(2) *The stated period must end at least 21 days after the engineer is given the notice.*

(3) *If, after considering all written representations made within the stated period, the board still believes a ground exists to cancel the engineer's registration, the board may cancel the registration.*

(4) *The board must, as soon as practicable after making a decision under subsection (3), give the engineer an information notice for the decision.*

(5) *The decision takes effect on—*

(a) *the day the notice is given; or*

(b) *if a later day is stated in the notice—the stated day.*

### ***Division 7—Offences about registration***

#### ***30 False or misleading statement***

*A person, in relation to an application under this part, must not state anything to the board the person knows is false or misleading in a material particular.*

*Maximum penalty—50 penalty units.*

#### ***31 False or misleading document***

(1) *A person, in relation to an application under this part, must not give the board a document containing information the person knows is false or misleading in a material particular.*

*Maximum penalty—50 penalty units.*

(2) *Subsection (1) does not apply to a person if the person, when giving the document—*

(a) *tells the board, to the best of the person's ability, how the information in the document is false or misleading; and*

(b) *if the person has, or can reasonably obtain, the correct information—gives the correct information.*



**32 Notification about particular matters**

*A registered professional engineer must, within 21 days after changing his or her name or contact details, advise the board about the change unless the engineer has a reasonable excuse.*

*Maximum penalty—10 penalty units.*

**Division 8—Miscellaneous****33 Surrender of registration**

*(1) A registered professional engineer may, by notice given to the board, surrender the engineer's registration.*

*(2) The surrender takes effect on the later of the following—*

- (a) the end of 7 days after the day the notice is given;*
- (b) a day stated in the notice for the surrender.*

**34 Form of certificate of registration**

*(1) A certificate of registration given under this part must be in the approved form.*

*(2) The approved form must provide for the inclusion of—*

- (a) the registered professional engineer's name; and*
- (b) the area of engineering for which the engineer is registered; and*
- (c) the period of registration.*

**35 Refund of fees—withdrawal of application**

*(1) This section applies if an applicant withdraws an application made under this part before the application is decided.*

*(2) The board must, as soon as practicable after the application is withdrawn—*

- (a) for an application for registration—refund the fees that accompanied the application less a reasonable amount, if any, prescribed under a regulation for processing the application; or*

- (b) *for an application for renewal or restoration of registration—refund the annual registration fee that accompanied the application.*

## ***PART 3—COMPLAINTS AND INVESTIGATIONS***

### ***Division 1—Grounds for disciplining registered professional engineers***

#### ***36 Grounds for disciplining a registered professional engineer***

*Each of the following is a ground (a “disciplinary ground”) for disciplining a registered professional engineer—*

- (a) *the engineer has, whether before or after the commencement of this Act, behaved in a way that constitutes unsatisfactory professional conduct;*
- (b) *the engineer has failed to comply with a provision of this Act or the repealed Act;*
- (c) *the engineer has been convicted of an offence against an Act of the State, the Commonwealth or another State related to the practice of engineering.*

### ***Division 2—Complaints***

#### ***37 Complaints about conduct***

**(1)** *A person who is aggrieved by a registered professional engineer’s conduct in carrying out professional engineering services, whether before or after the commencement of this Act, may make a complaint about the conduct to the board.*

**(2)** *A complaint must be in the approved form.*

**(3)** *The chairperson must keep available for inspection, at the board’s office by members of the public, information about—*

- (a) *the type of conduct the board considers may give rise to a complaint; and*
- (b) *how a person may make a complaint.*

### **38 Board may require further information or statutory declaration**

*(1) The board may, by notice, ask a complainant to give the board further information about the complaint within the reasonable time stated in the notice.*

*(2) Also, the board may require a complainant to verify the complaint or further information by statutory declaration.*

### **39 Rejection of complaint**

*The board may decide to reject a complaint if the board reasonably considers the complaint is frivolous, vexatious or trivial.*

### **40 Withdrawal of complaint**

*(1) If a complainant withdraws a complaint, the board need not take any further action about the complaint.*

*(2) However, the withdrawal does not stop the board—*

- (a) *investigating, or continuing to investigate, the matter of the complaint; or*
- (b) *authorising an investigator to investigate, or continue to investigate, the matter of the complaint.*

*(3) In deciding whether to act as mentioned in subsection (2), the board must have regard to the main objects of this Act and the grounds for disciplining a registered professional engineer.<sup>6</sup>*

## **Division 3—Investigations**

### **41 Investigation of registered professional engineer's conduct**

*(1) This section applies if—*

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<sup>6</sup> For the grounds for disciplining a registered professional engineer, see section 36.

- (a) *a complaint is made about a registered professional engineer's conduct in carrying out professional engineering services; or*
- (b) *the board reasonably believes an aspect of a registered professional engineer's conduct in carrying out professional engineering services may provide a ground for disciplining the engineer.*

(2) *The board may conduct an investigation of the registered professional engineer's conduct or authorise, in writing, an investigator to conduct the investigation.*

(3) *To help the board decide whether to act under subsection (2), the board may give the registered professional engineer a notice stating he or she may make a submission to the board about the complaint or ground for disciplining the registered professional engineer within the reasonable time stated in the notice.*

#### **42 Investigation of compliance with Act**

(1) *If the board reasonably suspects a person has committed an offence against this Act, the board may—*

- (a) *investigate the suspected offence; or*
- (b) *authorise, in writing, an investigator to conduct the investigation.*

(2) *For helping the board decide whether to act under subsection (1), the board may give the person a notice stating the person may make a submission to the board about the matter the subject of the suspected offence within the reasonable time stated in the notice.*

#### **43 Investigation to be conducted as quickly as possible**

*The board, or an investigator it authorises to conduct an investigation, must conduct the investigation as quickly as possible having regard to the nature of the matter being investigated.*

#### **44 Notice of investigation**

(1) *As soon as practicable after deciding to conduct, or authorising an investigator to conduct, an investigation in relation to a person, the board must give the person notice of the investigation.*

*(2) The notice must state each of the following—*

- (a) whether the investigation is being conducted by the board or an investigator;*
- (b) if an investigator is conducting the investigation—the investigator's name;*
- (c) if the investigation relates to a complaint—the nature of the complaint;*
- (d) if the board or an investigator is conducting the investigation on the board's own initiative under section 41(1)(b) or 42—the grounds that are the basis for the investigation;*
- (e) that the person may make, during the course of the investigation, a submission to the board or investigator about the complaint or other grounds for the investigation, and how a submission may be made.*

*(3) However, the board need not give the person the notice if the board reasonably believes that giving the notice may—*

- (a) seriously prejudice the investigation; or*
- (b) place the complainant or another person at risk of harassment or intimidation.*

*(4) A submission under subsection (2)(e) must be made to—*

- (a) if an investigator is conducting the investigation—the investigator; or*
- (b) otherwise—the board.*

#### **45 Board may engage persons to help investigation**

*(1) The board may engage a person to help the board or investigator in conducting an investigation if the board is satisfied the person is sufficiently qualified or experienced to help the board or investigator about the matter the subject of the investigation.*

*(2) Without limiting subsection (1), the board may engage the person to give the board or investigator a written report about the matter the subject of the investigation.*

***Division 4—Investigators******46 Function of investigator***

*An investigator has the function of conducting the investigation the investigator is authorised to conduct by the board.*

***47 Powers of investigator***

*To conduct the investigation, an investigator has the powers given to the investigator under this Act.*

***Division 5—Appointment of investigators and other matters******48 Appointment and qualifications***

*(1) The board may appoint a person as an investigator.*

*(2) The person must be an individual who is not a board member.*

*(3) However, the board may appoint a person as an investigator only if the board is satisfied the person has the necessary expertise or experience.*

***49 Appointment conditions and limit on powers***

*(1) An investigator holds office on any conditions stated in—*

*(a) the investigator’s instrument of appointment; or*

*(b) a signed notice given to the investigator; or*

*(c) a regulation.*

*(2) The instrument of appointment, a signed notice given to the investigator or a regulation may limit the investigator’s powers under this Act.*

*(3) In this section—*

*“signed notice” means a notice signed by the chairperson or deputy chairperson.*

**50 Issue of identity card**

(1) *The board must issue an identity card to each investigator appointed by it.*

(2) *The identity card must—*

- (a) *contain a recent photograph of the investigator; and*
- (b) *contain a copy of the investigator's signature; and*
- (c) *identify the person as an investigator under this Act; and*
- (d) *state an expiry date for the card.*

**51 Production or display of identity card**

(1) *In exercising a power under this Act in relation to a person, an investigator must—*

- (a) *produce the investigator's identity card for the person's inspection before exercising the power; or*
- (b) *have the identity card displayed so it is clearly visible to the person when exercising the power.*

(2) *However, if it is not practicable to comply with subsection (1), the investigator must produce the identity card for the person's inspection at the first reasonable opportunity.*

**52 When investigator ceases to hold office**

(1) *An investigator ceases to hold office if any of the following happens—*

- (a) *the term of office stated in a condition of office ends;*
- (b) *under another condition of office, the investigator ceases to hold office;*
- (c) *the investigator's resignation under section 53 takes effect.*

(2) *Subsection (1) does not limit the ways an investigator may cease to hold office.*

(3) *In this section—*

**“condition of office”** *means a condition on which the investigator holds office.*

**53 Resignation**

*An investigator may resign by signed notice given to the board.*

**54 Failure to return identity card**

*An individual who ceases to be an investigator must return the individual's identity card to the board within 21 days after ceasing to be an investigator, unless the individual has a reasonable excuse.*

*Maximum penalty—10 penalty units.*

**Division 6—Powers of board and investigators****55 Power to require information or attendance**

*For an investigation, the board or an investigator may, by notice given to a person, require the person—*

- (a) to give stated information to the board or investigator within a stated reasonable time and in a stated reasonable way; or*
- (b) to attend before the board or investigator at a stated reasonable time and place—*
  - (i) to answer questions; or*
  - (ii) to produce a stated document.*

*Examples of a document—*

*Engineering plans or drawings, or a document containing engineering calculations.*

**56 Offences**

*(1) A person required to give information to the board or an investigator under section 55 must comply with the requirement unless the person has a reasonable excuse.*

*Maximum penalty—50 penalty units.*

*(2) A person given a notice under section 55 must not fail, without reasonable excuse—*

- (a) to attend as required by the notice; or*



- (b) *to continue to attend as required by the board or investigator until excused from further attendance; or*
- (c) *to answer a question the person is required to answer by the board or investigator; or*
- (d) *to produce a document the person is required to produce by the notice.*

*Maximum penalty—50 penalty units.*

*(3) It is a reasonable excuse for a person not to give the information, answer the question or produce the document, if giving the information, answering the question or producing the document might tend to incriminate the person.*

### **57 Inspection and copying of produced documents**

*(1) If a document is produced to the board or an investigator, whether under a notice under section 55 or otherwise, the board or investigator may inspect it.*

*(2) Also, the board or investigator may make a copy of, or take an extract from, the document if the board or investigator reasonably considers the document may be relevant to the investigation being conducted by the board or investigator.*

## **Division 7—Seizure of documents**

### **58 Seizing document as evidence**

*The board or investigator may seize a document mentioned in section 57(1) if the board or investigator reasonably believes the document is evidence that is relevant to the investigation being conducted by the board or investigator.*

### **59 Receipt for seized document**

*(1) As soon as practicable after the board or investigator seizes a document, the board or investigator must give a receipt for it to the person from whom it was seized.*

*(2) The receipt must describe generally each document seized and its condition.*

**60 Investigator to give seized document to board**

*If an investigator seizes a document under section 58, the investigator must give the document to the board when the investigator gives the board a report about the investigation under section 71(1).*

**61 Access to seized document**

*(1) Until a seized document is returned, the board or investigator must allow its owner to inspect or copy it.*

*(2) Subsection (1) does not apply if it would be unreasonable to allow the inspection or copying.*

**62 Return of seized document**

*(1) The board must return a document seized as evidence, whether by the board or an investigator, to its owner—*

*(a) at the end of 6 months; or*

*(b) if proceedings involving the document are started within 6 months—at the end of the proceedings and any appeal from the proceedings.*

*(2) Despite subsection (1), the board must immediately return the document to its owner if the board stops being satisfied its continued retention as evidence is necessary.*

**Division 8—Notice of damage and compensation****63 Notice of damage**

*(1) This section applies if the board or an investigator damages property when exercising or purporting to exercise a power under division 6 or 7.*

*(2) The board or investigator must immediately give notice of the damage to the person who appears to the board or investigator to be the owner of the property.*

*(3) The notice must state—*

*(a) the particulars of the damage; and*

(b) *that the person who suffered the damage may be entitled to claim compensation under section 64.*

(4) *If the board or investigator believes the damage was caused by a latent defect in the property or circumstances beyond the board's or investigator's control, the board or investigator may state the belief in the notice.*

(5) *This section does not apply to damage the board or investigator reasonably believes is trivial.*

(6) *In subsection (2)—*

*“owner”, of property, includes the person in possession or control of it.*

## **64 Compensation**

(1) *This section applies if a person incurs loss or damage because of the exercise or purported exercise of a power under division 6 or 7.*

(2) *The person is entitled to be paid the reasonable compensation because of the loss or damage agreed between the board and the person, or failing agreement, decided by a court.*

(3) *Compensation may be claimed and ordered to be paid in a proceeding—*

(a) *brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or*

(b) *for an offence against this Act brought against the person claiming compensation.*

(4) *A court may order compensation to be paid only if it is satisfied it is fair to make the order in the circumstances of the particular case.*

## **Division 9—Offences about investigations**

### **65 False or misleading statements**

*A person must not, in relation to an investigation under this part, state anything to the board or an investigator that the person knows is false or misleading in a material particular.*

*Maximum penalty—50 penalty units.*

**66 False or misleading documents**

*(1) A person must not, in relation to an investigation under this part, give the board or an investigator a document containing information that the person knows is false or misleading in a material particular.*

*Maximum penalty—50 penalty units.*

*(2) Subsection (1) does not apply to a person who, when giving the document—*

- (a) informs the board or investigator, to the best of the person's ability, how it is false or misleading; and*
- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information to the board or investigator.*

**67 Obstructing board or investigators**

*(1) A person must not obstruct the board in its exercise of a power in the conduct of an investigation, or an investigator in the exercise of a power, unless the person has a reasonable excuse.*

*Maximum penalty—100 penalty units.*

*(2) If a person has obstructed the board or an investigator as mentioned in subsection (1) and the board or investigator decides to proceed with the exercise of the power, the board or investigator must warn the person that—*

- (a) it is an offence to obstruct the board or an investigator, unless the person has a reasonable excuse; and*
- (b) the board or investigator considers the person's conduct is an obstruction.*

*(3) In this section—*

*“obstruct” includes hinder and attempt to obstruct or hinder.*

**68 Impersonation of investigators**

*A person must not pretend to be an investigator.*

*Maximum penalty—100 penalty units.*

## **PART 4—REPORTS AND BOARD'S DECISIONS ABOUT INVESTIGATIONS**

### **69 Board's report about investigation**

(1) *The board must, as soon as practicable after completing an investigation, prepare a written report about the investigation.*

(2) *The report must include the board's findings about the investigation, including, if the investigation was the result of a complaint, the board's findings about the complaint.*

### **70 Report about investigation being conducted**

*An investigator must, if asked by the board, give the board an interim report about the conduct of an investigation being conducted by the investigator.*

### **71 Investigator's report about investigation**

(1) *An investigator must, as soon as practicable after the investigator considers an investigation being conducted by the investigator is completed, give the board a written report about the investigation.*

(2) *If the investigation was the result of a complaint, the report must include the investigator's findings about the complaint.*

(3) *If the board considers the report does not include enough information to enable the board to make a decision under section 73(2) or 75(2), the board may, by notice, ask the investigator to give the board a further report about the investigation.*

(4) *The investigator must, as soon as practicable, comply with a request under subsection (3).*

### **72 Board may report to Minister**

*The Board may, at any time, give the Minister a report about an investigation conducted by the board or an investigator.*

**73 Board's decision on investigation about registered professional engineer**

*(1) This section applies if the board—*

- (a) prepares a report under section 69(1) about a registered professional engineer; or*
- (b) receives a report under section 71(1) about a registered professional engineer and does not request a further report about the engineer under section 71(3); or*
- (c) receives a further report under section 71(3) about a registered professional engineer.*

*(2) As soon as practicable after preparing the report, or receiving the report or further report, the board must decide to do 1 of the following—*

- (a) start a disciplinary proceeding against the registered professional engineer;<sup>7</sup>*
- (b) enter into an undertaking agreed with the registered professional engineer, about the engineer's conduct in carrying out professional engineering services;*
- (c) caution or reprimand the registered professional engineer;*
- (d) take no further action about the matter the subject of the investigation.*

*(3) In acting under subsection (2), the board must have regard to the main objects of this Act and the disciplinary grounds.*

*(4) Also, regardless of what the board decides under subsection (2)(a), (b) or (c), the board may start proceedings to prosecute the registered professional engineer for an offence.*

*(5) A decision to take action as mentioned in subsection (2)(b), (c) or (d) does not prevent the board taking the matter the subject of the investigation into consideration at a later time as part of a pattern of conduct or practice that may result in starting a disciplinary proceeding against the registered professional engineer.*

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<sup>7</sup> For how to start a disciplinary proceeding, see part 8 (Reviews and disciplinary proceedings).

**74 Notice of result of investigation about registered professional engineer**

(1) As soon as practicable after making a decision under section 73(2) or (4) about a registered professional engineer, the board must give notice of the decision to—

- (a) the registered professional engineer; and
- (b) if the investigation was the result of a complaint—the complainant.

(2) If the board decides, under section 73(2)(c), to caution or reprimand the registered professional engineer, the board must give the engineer an information notice for the decision.

(3) If the board decides, under section 73(2)(d), to take no further action about the matter the subject of an investigation started because of a complaint, the board must give the complainant an information notice for the decision.

**75 Board's decision about other investigations**

(1) This section applies if the board—

- (a) prepares a report under section 69(1) about a person other than a registered professional engineer; or
- (b) receives a report under section 71(1) about a person other than a registered professional engineer and does not request a further report about the person under section 71(3); or
- (c) receives a further report under section 71(3) about a person other than a registered professional engineer.

(2) As soon as practicable after preparing the report, or receiving the report or further report, the board must decide to do 1 of the following—

- (a) start proceedings to prosecute the person for an offence;
- (b) enter into an undertaking agreed with the person about the person's conduct;
- (c) caution or reprimand the person;
- (d) take no further action about the matter the subject of the investigation.

(3) *As soon as practicable after making the decision, the board must give notice of the decision to the person.*

(4) *If the board decides, under subsection (2)(c), to caution or reprimand the person, the board must give the person an information notice for the decision.*

#### **76 Board to take action as soon as practicable**

*As soon as practicable after deciding to take action under section 73(2)(a) to (c), or (4), or section 75(2)(a) to (c), the board must take the action.*

## **PART 5—BOARD OF PROFESSIONAL ENGINEERS OF QUEENSLAND**

### **Division 1—Establishment**

#### **77 Establishment of board**

(1) *The Board of Professional Engineers of Queensland is established.*

(2) *The board—*

- (a) *is a body corporate; and*
- (b) *has perpetual succession; and*
- (c) *has a common seal; and*
- (d) *may sue and be sued in its corporate name.*

#### **78 Board's relationship with the State**

*The board does not represent the State.*



**79 Board's independence etc.**

*In performing its functions, the board is to act independently, impartially and in the public interest.*

**Division 2—Functions and powers****80 Functions of board**

*(1) The functions of the board are as follows—*

- (a) to assess applications made to it under this Act;*
- (b) to register persons who are eligible for registration and issue certificates of registration;*
- (c) to conduct, or authorise, investigations about the professional conduct of registered professional engineers and contraventions of this Act;*
- (d) to keep the register;*
- (e) to advise the Minister about—*
  - (i) eligibility requirements for persons applying for registration, or renewal or restoration of registration; and*
  - (ii) the suitability of entities to be assessment entities; and*
  - (iii) the operation of this Act in its application to the practice of engineering;*
- (f) to review the eligibility requirements mentioned in paragraph (e)(i);*
- (g) to perform other functions given to the board under this or another Act;*
- (h) to perform a function incidental to a function mentioned in paragraphs (a) to (g).*

*(2) The board must, at least once every 2 years, review the eligibility requirements mentioned in subsection (1)(e)(i) and the suitability of entities to continue as assessment entities.*

**81 Powers of board**

(1) *The board has all the powers of an individual, and may, for example, do all or any of the following—*

- (a) *enter into contracts;*
- (b) *acquire, hold, deal with and dispose of, property;*
- (c) *appoint and act through agents and attorneys;*
- (d) *employ staff and engage consultants;*
- (e) *do anything else necessary or convenient to be done for the performance of its functions.*

(2) *Without limiting subsection (1), the board has the other powers given to it under this Act.*

**Division 3—Membership****82 Membership of board**

(1) *The board consists of 7 members appointed by the Governor in Council.*

(2) *The board must include—*

- (a) *1 person who—*
  - (i) *is the academic head or an academic representative of a school of engineering prescribed under a regulation; and*
  - (ii) *is a registered professional engineer, or as an applicant would be eligible for registration; and*
- (b) *1 person who—*
  - (i) *is a representative of the Queensland Division of the Institution of Engineers (Australia) (the “institution”); and*
  - (ii) *is a registered professional engineer, or as an applicant would be eligible for registration; and*
- (c) *1 registered professional engineer elected under this Act; and*
- (d) *1 registered professional engineer who lives, and undertakes professional engineering services predominantly, in regional Queensland; and*

- (e) *1 lawyer, of at least 10 years standing, with experience in the law relating to building and construction; and*
- (f) *1 person who has at least 10 years experience as a construction contractor in the building and construction industry; and*
- (g) *1 person who is not a registered professional engineer.*

(3) *The members mentioned in subsection (2)(a), (b) and (d) to (g) are to be nominated by the Minister.*

(4) *If a registered professional engineer is not elected under subsection (2)(c), the Minister may nominate a registered professional engineer for appointment to the board.*

(5) *A registered professional engineer nominated under subsection (4) is taken to be elected under subsection (2)(c).*

(6) *The Minister must nominate a person for appointment under subsection (2)(g) who the Minister reasonably believes will represent community interests.*

### **83 Chairperson and deputy chairperson**

(1) *The chairperson of the board is the member appointed by the Governor in Council as the chairperson.*

(2) *The deputy chairperson of the board is the member appointed by the Governor in Council as the deputy chairperson.*

(3) *A person may be appointed as the chairperson or deputy chairperson at the same time the person is appointed as a member.*

(4) *The chairperson or deputy chairperson holds office for the term decided by the Governor in Council, unless the person's term of office as a member ends sooner than the person's term of office as chairperson or deputy chairperson.*

(5) *A vacancy occurs in the office of chairperson or deputy chairperson if the person holding the office resigns the office by signed notice of resignation given to the Minister or stops being a member.*

(6) *However, a person resigning the office of chairperson or deputy chairperson may continue to be a member.*

(7) *The deputy chairperson is to act as chairperson—*

- (a) *during a vacancy in the office of chairperson; and*

- (b) *during all periods when the chairperson is absent from duty or for another reason can not perform the functions of the office.*

#### **84 Duration of appointment**

(1) *A member is to be appointed for the term, of not more than 3 years, stated in the member's instrument of appointment.*

(2) *However, if at the end of a member's term of appointment a person has not been appointed to replace the member, the member's term does not end until the first of the following events to happen—*

- (a) *the end of 3 months after the member's term would, apart from this subsection, have ended;*
- (b) *the member is reappointed;*
- (c) *if the member is not reappointed—another person has been appointed to replace the member.*

#### **85 Conditions of appointment**

(1) *A member holds office—*

- (a) *on a part-time basis; and*
- (b) *on terms, not otherwise provided for in this Act, that are decided by the Governor in Council.*

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

#### **86 Termination of appointment**

(1) *The Governor in Council may remove a member from office if—*

- (a) *the member is absent from 3 consecutive meetings of the board without the board's permission and without reasonable excuse;*  
*or*
- (b) *the Minister is satisfied the member—*
- (i) *is incapable of performing the duties of a member because of physical or mental incapacity, or otherwise fails to perform the member's duties; or*

- (ii) *is performing the member's duties carelessly, incompetently or inefficiently; or*
- (iii) *is affected by bankruptcy action; or*
- (iv) *is an executive officer of a corporation affected by control action after the commencement of this section; or*
- (v) *has a conviction, other than a spent conviction, for an indictable offence or an offence against this Act; or*
- (vi) *commits misconduct of a kind that could justify dismissal from the public service if the member were a public service officer.*

(2) *In this section—*

**“meeting”** *means the following—*

- (a) *if the member does not attend—a meeting with a quorum present;*
- (b) *if the member attends—a meeting with or without a quorum present.*

### **87 Vacation of office**

(1) *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 under section 86.*

(2) *Also, the office of a member becomes vacant if the member ceases to hold the office or qualification, if any, mentioned in section 82(2) for the member.*

### **88 Leave of absence for a member**

(1) *The Minister may approve a leave of absence for a member (the “absent member”) of not more than 9 months.*

(2) *The Minister may appoint another person to act in the office of the absent member while the member is absent on the leave.*

(3) *A person appointed under subsection (2), must be—*

- (a) *if the absent member is a person mentioned in section 82(2)(a), (b), (e), (f) or (g)—a person who belongs to the same category of*

*persons, mentioned in the section, to which the absent member belongs; or*

- (b) if the absent member is a person mentioned in section 82(2)(c) or (d)—a registered professional engineer.*

*(4) The Minister's power to appoint a person to act in the office of an absent member does not limit the Governor in Council's powers under the Acts Interpretation Act 1954, section 25(1)(b)(v).<sup>8</sup>*

### **89 Effect of vacancy in membership of board**

*(1) The performance of a function, or exercise of a power, by the board is not affected merely because of a vacancy in the membership of the board.*

- (2) Subsection (1) applies despite section 82(1).*

### **90 Report about person's criminal history**

*(1) To help decide whether a person is a suitable person to be nominated as a member under section 82(3) or appointed to act in the office of a member under section 88(2), the chief executive may ask the commissioner of the police service for a written report about the person's criminal history.*

*(2) However, the chief executive may make a request about a person under subsection (1) only if the person has given the chief executive written consent for the request.*

*(3) If asked by the chief executive, the commissioner of the police service must give the chief executive a written report about the criminal history of the person.*

*(4) 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.*

*(5) The chief executive must destroy a report given to the chief executive under this section as soon as practicable after it is no longer needed for the purpose for which it was requested.*

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<sup>8</sup> *Acts Interpretation Act 1954, section 25 (Powers of appointment imply certain incidental powers)*

**Division 4—Business and meetings****91 Conduct of business**

*Subject to this division, the board may conduct its business, including its meetings, in the way it considers appropriate.*

**92 Times and places of meetings**

*(1) Board meetings must be held at least once in every 2 months at the times and places the chairperson decides.*

*(2) However, the chairperson must call a meeting if asked, in writing, to do so by the Minister or at least 2 members.*

**93 Quorum**

*A quorum for a meeting of the board is 4 members.*

**94 Presiding at meetings**

*(1) The chairperson is to preside at all meetings of the board at which the chairperson is present.*

*(2) If the chairperson is absent from a board meeting, but the deputy chairperson is present, the deputy chairperson is to preside.*

*(3) If the chairperson and deputy chairperson are both absent from a board meeting—*

*(a) the member nominated by the chairperson is to preside; or*

*(b) if the chairperson does not nominate a member under paragraph (a)—the member nominated by the deputy chairperson is to preside.*

*(4) If the offices of chairperson and deputy chairperson are vacant, the member chosen by the members present is to preside.*

**95 Conduct of meetings**

*(1) A question at a board meeting is to be decided by a majority of the votes of the members present and voting.*

(2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding has a casting vote.

(3) A member present at the meeting who abstains from voting is taken to have voted for the negative.

(4) The board may hold meetings, or allow members to take part in its meetings, by using any technology that reasonably allows members to hear and take part in discussions as they happen.

*Example of use of technology—*

*Teleconferencing.*

(5) A member who takes part in a board meeting under subsection (4) is taken to be present at the meeting.

(6) A resolution is validly made by the board, even if it is not passed at a board meeting, if—

- (a) a majority of the members gives written agreement to the resolution; and
- (b) notice of the resolution is given under procedures approved by the board.

## **96 Minutes**

(1) The board must keep minutes of its meetings.

(2) Each of the following must be recorded in the minutes—

- (a) a decision made under section 73(2) or 75(2);
- (b) a resolution made under section 95(6);
- (c) an authorisation by the board under section 105.<sup>9</sup>

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<sup>9</sup> Sections 73 (Board's decision on investigation about registered professional engineer), 75 (Board's decision about other investigations), 95 (Conduct of meetings) and 105 (Board's common seal)



***Division 5—Disclosure of interests by board members*****97 *Disclosure of interests***

*(1) This section applies to a board member if—*

- (a) the member has a direct or indirect interest in an issue being considered, or about to be considered, by the board; and*
- (b) the interest could conflict with the proper performance of the member's duties about the consideration of the issue.*

*(2) As soon as practicable after the relevant facts come to the member's knowledge, the member must disclose the nature of the interest to a meeting of the board.*

*(3) Unless the board otherwise directs, the member must not—*

- (a) be present when the board considers the issue; or*
- (b) take part in a decision of the board about the issue.*

*(4) The member must not be present when the board is considering whether to give a direction under subsection (3).*

*(5) If there is another member who must, under subsection (2), also disclose an interest in the issue, the other member must not—*

- (a) be present when the board is considering whether to give a direction under subsection (3); or*
- (b) take part in making the decision about giving the direction.*

*(6) If—*

- (a) because of this section, a member is not present at a board meeting for considering or deciding an issue, or for considering or deciding whether to give a direction under subsection (3); and*
- (b) there would be a quorum if the member were present;*

*the remaining members present are a quorum of the board for considering or deciding the issue, or for considering or deciding whether to give the direction, at the meeting.*

*(7) A disclosure under subsection (2) must be recorded in the board's minutes.*

*(8) If the member is a registered professional engineer, the member does not have a direct or indirect interest in an issue if the interest arises merely because the member is a registered professional engineer.*

### ***Division 6—Directions by Minister and performance agreements***

#### **98 Ministerial direction**

*(1) The Minister may give the board a written direction about the performance of the board's functions or exercise of its powers if satisfied it is necessary to give the direction in the public interest.*

*(2) Without limiting subsection (1), the direction may be to—*

- (a) give reports and information; or*
- (b) apply to the board a policy, standard or other instrument applying to a public sector unit.*

*(3) The direction can not be about—*

- (a) the registering of, or refusal to register, an applicant for registration; or*
- (b) the renewing of, or refusal to renew, a registration; or*
- (c) the restoring of, or refusal to restore, a registration; or*
- (d) the cancelling of a registration.*

*(4) Despite section 79,<sup>10</sup> the board must comply with the direction.*

*(5) However, before giving the direction the Minister must consult with the board.*

*(6) The Minister must publish a copy of the direction in the gazette within 21 days after the direction is given.*

#### **99 Performance agreement**

*(1) The board must enter into an agreement with the Minister (a “**performance agreement**”) within 1 month after the end of each financial year.*

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<sup>10</sup> Section 79 (Board's independence etc.)

(2) *The performance agreement must identify the board's strategic direction for the current financial year and the 2 following financial years.*

(3) *The agreement may include other matters relevant to the board's functions and agreed to by the Minister and the board.*

### ***Division 7—Registrar of board***

#### ***100 Appointment and function of registrar***

(1) *There is a registrar of the board.*

(2) *The registrar is to be appointed to the office under the Public Service Act 1996.*

(3) *The registrar is responsible for managing the board's administrative affairs.*

#### ***101 Board to reimburse cost of registrar's services***

*The board must reimburse the public sector unit in which the registrar is employed the reasonable costs of the registrar managing the board's administrative affairs.*

### ***Division 8—Register***

#### ***102 Keeping register***

(1) *The board must keep a register of persons who are, or have been, registered professional engineers.*

(2) *The register may be kept in the way the board considers appropriate, including, for example, in an electronic form.*

(3) *The register must contain all the following particulars for each person—*

- (a) *the person's name and contact details;*
- (b) *details of the person's eligibility for registration as a registered professional engineer;*
- (c) *if the tribunal makes an order about the person under section 131(2) or (3) or section 132(2)(b)—details of the order;*

*other than any details identified in the order as details that are not to be included in the register;*

- (d) if the tribunal conducts a disciplinary proceeding in relation to the person because of the person's conviction for an offence against this Act—the fact of the conviction;*
- (e) if the person's registration is cancelled under section 29(3)—the day the registration is cancelled and the reasons for the cancellation;*
- (f) if the person's registration is not renewed under section 20—the reasons for not renewing the registration;*
- (g) if the person's registration is not restored under section 24—the reasons for not restoring the registration;*
- (h) other particulars relevant to the person's registration and prescribed under a regulation.*

**(4)** *If an order mentioned in subsection (3)(c) states a period in which details of the order may be included in the register, the details may be included in the register only for the stated period.*

**(5)** *The particulars mentioned in subsection (3)(e) to (g) for a decision of the board to cancel, or refuse to renew or restore, a person's registration must not be included in the register until—*

- (a) the period in which the person may apply to the tribunal for a review of the decision has ended; or*
- (b) if the person has applied to the tribunal for a review of the decision—the review, and any appeal from the tribunal's decision on the review, has been decided or is otherwise ended.*

**(6)** *However, if a person applies to the tribunal for a review of a decision of the board to cancel, or refuse to renew or restore the person's registration, the particulars mentioned in subsection (3)(e) to (g) for the decision may only be included in the register if—*

- (a) the review, and any appeal from the tribunal's decision on the review, is decided or otherwise ended; and*
- (b) the result of the decision on the review and any appeal from the decision, or the ending of the review or appeal, is that the person's registration remains cancelled or may not be renewed or restored.*

**103 Inspection of register**

(1) *The board must—*

- (a) *keep the register open for inspection, free of charge, at the board's office by members of the public during ordinary office hours; and*
- (b) *give a person a copy of the register, or a part of it, on payment of the fee prescribed under a regulation.*

(2) *Also, the board may make the register available for inspection on its website.*

**Division 9—Other provisions about the board****104 Application of other Acts**

(1) *The board is a statutory body within the meaning of the—*

- (a) *Financial Administration and Audit Act 1977; and*
- (b) *Statutory Bodies Financial Arrangements Act 1982.*

(2) *The Statutory Bodies Financial Arrangements Act 1982, part 2B,<sup>11</sup> sets out the way in which the board's powers under this Act are affected by the Statutory Bodies Financial Arrangements Act 1982.*

**105 Board's common seal**

*The board's common seal must be kept in the custody of a person nominated by the board and may be used only as authorised by the board.*

**106 Board to reimburse tribunal costs**

(1) *The board must reimburse the department the tribunal costs paid by the department to the tribunal department.*

(2) *In this section—*

**“tribunal costs”** *means the reasonable costs of the tribunal incurred in conducting—*

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11 *Statutory Bodies Financial Arrangements Act 1982, part 2B (Powers under this Act and relationship with other Acts)*

- (a) *proceedings for reviews of decisions mentioned in section 122(2); or*
- (b) *disciplinary proceedings.*

**“tribunal department”** *means the department in which the Tribunal Act is administered.*

### **107 Matters to be included in annual report**

*The board’s annual report under the Financial Administration and Audit Act 1977 for a financial year must include each of the following—*

- (a) *a copy of all ministerial directions given to the board under section 98(1) during the year;*
- (b) *details about action taken by the board to comply with each direction mentioned in paragraph (a);*
- (c) *information about whether the board’s activities during the year were consistent with its performance agreement;*
- (d) *details about disciplinary proceedings, or proceedings for a contravention of the Act, started by the board;*
- (e) *details of the results of reviews, under part 8, division 2, of decisions.*

## **PART 6—CODES OF PRACTICE**

### **108 Board to make code of practice**

**(1)** *The board must, within 9 months after the commencement of this part, make a code of practice to provide guidance to registered professional engineers as to appropriate professional conduct or practice.*

**(2)** *In developing or amending a code of practice, the board must consult with—*

- (a) *professional associations in the State that the board considers represent the interests of registered professional engineers; and*

(b) *universities that—*

(i) *are established in Queensland; and*

(ii) *are engaged in the education of students in the profession of engineering; and*

(c) *any other entity the Minister directs the board to consult with.*

(3) *A code of practice, or an amendment of a code of practice, has no effect until it is approved under a regulation.*

(4) *The board may make a code of practice by adopting another entity's code of practice with or without changes.*

(5) *The board must review its code of practice at least once every 3 years.*

(6) *The board's code of practice is a statutory instrument within the meaning of the Statutory Instruments Act 1992.*

### **109 Tabling of code**

(1) *This section applies if, under section 108(3), a code of practice, or amendment of a code of practice, has been approved under a regulation.*

(2) *The Minister must, within 14 sitting days after the regulation is gazetted, table a copy of the code, or amendment or amended code, in the Legislative Assembly.*

(3) *A failure to comply with subsection (2) does not invalidate or otherwise affect the code or the regulation.*

### **110 Inspection of code**

(1) *The board must—*

(a) *keep copies of the code of practice, as in force from time to time, available for inspection, free of charge, at the board's office by members of the public during ordinary office hours; and*

(b) *give a person a copy of the code, or a part of it, on payment of the fee prescribed under a regulation.*

(2) *Also, the board may make the code of practice available for inspection on its website.*

**111 Notice of approval or amendment of code**

*The board must notify registered professional engineers of the approval of a code of practice and any amendment of the code.*

**112 Use of code of practice in disciplinary proceeding**

*(1) An approved code of practice is admissible as evidence in a disciplinary proceeding brought by the board against a registered professional engineer.*

*(2) The code may only be used to provide evidence, in the disciplinary proceeding, of appropriate professional conduct or practice for a registered professional engineer.*

**PART 7—OTHER OFFENCE PROVISIONS****113 Claims about being a registered professional engineer**

*(1) A person who is not a registered professional engineer must not—*

- (a) claim, or hold himself or herself out, to be a registered professional engineer; or*
- (b) allow himself or herself to be held out as a registered professional engineer.*

*Maximum penalty—1 000 penalty units.*

*(2) A person must not hold out another person as a registered professional engineer if the person knows or ought reasonably to know the other person is not a registered professional engineer.*

*Maximum penalty—1 000 penalty units.*

**114 Using titles or names**

*A person who is not a registered professional engineer must not use—*



- (a) the titles 'registered professional engineer', 'registered professional engineer of Queensland' or 'RPEQ'; or
- (b) another title or name, prescribed under a regulation, that in the context in which the title or name is used suggests that the person is a registered professional engineer.

*Maximum penalty—1 000 penalty units.*

### **115 Who may carry out professional engineering services**

*(1) A person who is not a registered professional engineer must not carry out professional engineering services.*

*Maximum penalty—1 000 penalty units.*

*(2) However, a person does not commit an offence under subsection (1) if the person carries out the professional engineering services under the supervision of a registered professional engineer.*

*(3) A person who is a registered professional engineer must not carry out professional engineering services in an area of engineering other than an area of engineering for which the person is registered under this Act.*

*Maximum penalty—1 000 penalty units.*

*(4) However, a person does not commit an offence under subsection (3) if the person carries out the professional engineering services under the supervision of a registered professional engineer who is registered in the area of engineering.*

### **116 Claims about provision of professional engineering services**

*(1) This section applies if a person claims, or holds out, that the person provides professional engineering services in an area of engineering at a place using a registered professional engineer.*

*(2) If the person provides the services, the person must ensure a registered professional engineer for the area of engineering—*

- (a) *is at the place to provide the services; and*
- (b) *carries out, or is responsible for the carrying out of, the services.*

*Maximum penalty—1 000 penalty units.*

*(3) In this section—*

**“place”** does not include a place at which a person provides professional engineering services for a single construction site.

*Example of a place—*

*A site office for a construction project.*

### **117 Providing information about registered professional engineers**

(1) This section applies to a person who claims, or holds out, that the person will provide professional engineering services to someone (the **“other person”**) using a registered professional engineer.

(2) The person must inform the other person of the name and contact details of the registered professional engineer responsible for the carrying out of the services.

*Maximum penalty—300 penalty units.*

(3) If the person informs another person of the name and contact details of the registered professional engineer, the person also must inform the other person of the name and contact details of any other registered professional engineer who becomes responsible for the carrying out of the services.

*Maximum penalty—300 penalty units.*

### **118 Information on correspondence about professional engineering services**

(1) This section applies to a person who provides, or intends to provide, professional engineering services to someone (the **“other person”**) using a registered professional engineer.

(2) The person must ensure the name and contact details of the registered professional engineer who is, or will be, responsible for the carrying out of the services are stated on all correspondence about the services from the person to the other person.

*Maximum penalty—300 penalty units.*

### **119 Information for advertisements**

A person must not advertise that the person provides professional engineering services using a registered professional engineer unless the name and contact details of the registered professional engineer

*responsible for the carrying out of the services are stated in the advertisement.*

*Maximum penalty—300 penalty units.*

## **PART 8—REVIEWS AND DISCIPLINARY PROCEEDINGS**

### ***Division 1—Preliminary***

#### ***120 Application of Tribunal Act***

*Subject to this part, the Tribunal Act applies to a review or disciplinary proceeding under the part to the extent that the Tribunal Act is capable of applying.*

#### ***121 Representation at proceeding***

*(1) In a proceeding before the tribunal—*

- (a) the board may only be represented by a person who is not a lawyer; and*
- (b) an individual must represent himself or herself.*

*(2) However, the board may be represented by a lawyer, and an individual may be represented by a lawyer or other person, if—*

- (a) all parties to the proceeding agree; or*
- (b) the proceeding is a disciplinary proceeding; or*
- (c) the tribunal considers it appropriate in the interests of justice to allow the representation, having regard to all or any of the following—*
  - (i) the cost of representation and whether each party can afford to be represented;*
  - (ii) the complexity of the legal and factual issues involved;*

(iii) *the potential for lengthening the proceedings if a party is not represented;*

(iv) *the ability of the party to represent himself or herself.*

(3) *Also, at a disciplinary proceeding a person summonsed to attend before the tribunal is entitled to be represented by a lawyer or other person.*

### ***Division 2—Reviews***

#### ***122 Review of particular decisions***

(1) *The tribunal may, on application by a person mentioned in subsection (2), review the decision of the board stated in the subsection for the person.*

(2) *Each of the following persons may apply to the tribunal to review the decision mentioned for the person—*

(a) *a person whose application for registration, or renewal or restoration of registration, is refused;*

(b) *a person whose application for renewal or restoration of registration is not accepted by the board under section 18(4) or 23(3);*

(c) *a person whose registration is cancelled under section 29(3);*

(d) *a person who, under section 73(2)(c) or 75(2)(c), has been cautioned or reprimanded;*

(e) *a person who makes a complaint if the board decides, under section 73(2)(d), to take no further action about the complaint.*

(3) *The tribunal may confirm, vary or reverse the decision and may make consequential orders and directions.*

#### ***123 Application for review***

(1) *A proceeding for a review is started by a person—*

(a) *filing, under the Tribunal Act, section 29, an application for the proceeding; and*

(b) *paying the fee prescribed under section 29(1) of that Act; and*

(c) *-serving a copy of the application on the board under section 29(4) of that Act.*<sup>12</sup>

(2) *The application must be made within 28 days after the applicant receives the information notice for the decision the subject of the review.*

### **124 Stay of operation of decision**

(1) *The tribunal may make an order staying the operation of—*

(a) *a decision, under section 20(1), refusing to renew a person's registration; or*

(b) *a decision, under section 29(3), cancelling a person's registration.*

(2) *The stay may be granted on conditions the tribunal considers appropriate and has effect for the period stated by the tribunal.*

(3) *The period of the stay must not extend past the time when the tribunal decides the matter the subject of the review.*

### **125 Effect of review on operation of decision**

*A review of a decision does not affect the operation of the decision unless the tribunal stays the decision.*

### **126 Information about review**

*The board must keep available for inspection, at the board's office by members of the public, information about how a person may apply to the tribunal for a review of a decision mentioned in section 122(2).*

## **Division 3—Disciplinary proceedings**

### **127 Tribunal may conduct disciplinary proceeding**

*The tribunal may, on application by the board, conduct a proceeding (a “disciplinary proceeding”) to decide whether a disciplinary ground is established.*

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12 The Tribunal Act, section 29 (Start of proceedings)

**128 Starting disciplinary proceeding**

(1) A disciplinary proceeding is started by the board—

- (a) filing, under the Tribunal Act, section 29, an application for the proceeding; and
- (b) paying the fee prescribed under section 29(1) of that Act; and
- (c) serving a copy of the application on the registered professional engineer under section 29(4) of that Act.

(2) The application must be made within 28 days after the board decides, under section 73(2)(a), to start the proceeding.

**129 Tribunal to have regard to code of practice**

If the tribunal is making a decision about whether the registered professional engineer has behaved in a way that constitutes unsatisfactory professional conduct or practice, the tribunal must have regard to the approved code of practice.

**130 Continuation of particular proceeding**

(1) This section applies if, after a disciplinary proceeding is started against a person, the person ceases to be a registered professional engineer.

(2) The proceeding may continue under this part.

**131 Orders relating to registered professional engineer**

(1) If the tribunal decides that a disciplinary ground is established, the tribunal may—

- (a) make 1 or more of the orders mentioned in subsections (2) to (4);  
or
- (b) take no action against the registered professional engineer.

(2) The tribunal may order the registered professional engineer to pay a stated amount of not more than the equivalent of 40 penalty units.

(3) Also, the tribunal may make an order—

- (a) reprimanding the registered professional engineer; or
- (b) cancelling the registered professional engineer's registration; or

(c) *disqualifying, indefinitely or for a stated period, the registered professional engineer from obtaining registration as a registered professional engineer.*

(4) *An order for payment of an amount under subsection (2) may direct that, if the registered professional engineer does not pay the amount within the period stated in the order, the registered professional engineer's registration be suspended until the amount is paid.*

(5) *If the registered professional engineer does not pay the amount within the stated period, the registration is suspended until the earlier of the following—*

- (a) *the day the amount is paid;*
- (b) *the day the registration expires.*

(6) *The suspension takes effect immediately after the end of the stated period.*

### **132 Orders relating to former registered professional engineer**

(1) *This section applies if the tribunal decides that a disciplinary ground is established against a person who—*

- (a) *was a registered professional engineer when the disciplinary proceeding for the person started; and*
- (b) *is not registered at the time of the tribunal's decision.*

(2) *The tribunal may decide—*

- (a) *to take no action against the person; or*
- (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 40 penalty units;*
  - (ii) *make an order indicating another form of disciplinary action mentioned in section 131(3) would have been taken if the person were registered.*

(3) *If the tribunal indicates under subsection (2)(b)(ii) that if the person were registered it would have cancelled the person's registration, or disqualified the person from obtaining registration for a period, the tribunal must also decide the period during which the person must not be re-registered by the board.*

*(4) A decision under subsection (3) may be that the person must never be re-registered by the board.*

### ***133 Effect of particular orders***

*(1) An order under section 131(2) or 132(2)(b)(i) must order that the amount be paid to the board.*

*(2) If the tribunal makes an order under section 131(3)(c) about a person, the board must not—*

- (a) if the disqualification is indefinite—re-register the person; or*
- (b) if the disqualification is for a stated period—re-register the person during the period stated in the order.*

*(3) If the tribunal decides under section 132(3) a period during which a person must not be re-registered by the board, the board must not register the person during the period.*

### ***134 Recording details of orders***

*If the tribunal makes an order about a person under section 131(2) or (3) or section 132(2)(b), the order may state—*

- (a) the period in which the details of the order are to be included in the register for the person; and*
- (b) the particular details of the order, if any, that the tribunal decides are not to be included in the register.*

## ***PART 9—LEGAL PROCEEDINGS***

### ***Division 1—Evidence***

#### ***135 Application of div 1***

*This division applies to a proceeding for an offence against this Act or a disciplinary proceeding.*



**136 Appointments and authority**

*The following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—*

- (a) *the appointment of—*
  - (i) *the chairperson or another board member; or*
  - (ii) *the registrar; or*
  - (iii) *an investigator;*
- (b) *the authority of the board or a person mentioned in paragraph (a) to do anything under this Act.*

**137 Signatures**

*A signature purporting to be the signature of the chairperson, a member or an investigator, is evidence of the signature it purports to be.*

**138 Evidentiary matters**

*A certificate purporting to be signed by the registrar and stating any of the following matters is evidence of the matter—*

- (a) *a stated document is 1 of the following things made, given, issued or kept under this Act—*
  - (i) *an appointment;*
  - (ii) *an order, direction, requirement, notice or decision;*
  - (iii) *a certificate of registration;*
  - (iv) *the board's minutes or an extract from the board's minutes;*
  - (v) *another record or an extract from another record;*
  - (vi) *the register or an extract from the register;*
- (b) *a stated document is an approved code of practice;*
- (c) *a stated document is another document kept under this Act;*
- (d) *a stated document is a copy of a thing mentioned in paragraph (a), (b) or (c);*
- (e) *on a stated day, or during a stated period, a stated person was or was not registered under this Act;*

- (f) *on a stated day, a registration was cancelled;*
- (g) *on a stated day, or during a stated period, a registration was suspended;*
- (h) *on a stated day, or during a stated period, an appointment as an investigator was, or was not, in force for a stated person;*
- (i) *on a stated day—*
  - (i) *a stated person was given a stated notice or direction under this Act; or*
  - (ii) *a stated requirement under this Act was made of a stated person;*
- (j) *a stated fee or other amount is payable by a stated person to the board and has not been paid.*

### ***Division 2—Offence proceedings***

#### ***139 Summary proceedings for offences***

*(1) A proceeding for an offence against this Act must be taken in a summary way under the Justices Act 1886.*

*(2) The proceeding must start—*

- (a) within 1 year after the commission of the offence; or*
- (b) within 6 months after the commission of the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.*

#### ***140 False or misleading information or statements***

*In a proceeding for an offence against this Act defined as involving false or misleading information, or a false or misleading statement, it is enough for a charge to state that the information or statement was, without specifying which, 'false or misleading'.*

## **PART 10—OTHER MATTERS**

### **141 Performance and carrying out of professional engineering services by particular entities**

*(1) This section applies to—*

- (a) a person who is not a registered professional engineer if the person, in performing, or undertaking to perform, professional engineering services for someone (the “client”)—*
  - (i) claims, or holds himself or herself out, to be a registered professional engineer; or*
  - (ii) allows himself or herself to be held out as a registered professional engineer; or*
- (b) another person if—*
  - (i) the person, in providing, or undertaking to provide, professional engineering services for someone (also the “client”) claims, or holds out, that the services are carried out, or to be carried out, by or under the supervision of a registered professional engineer; and*
  - (ii) the services are not carried out by or under the supervision of a registered professional engineer.*

*(2) Despite any agreement between the person and the client, the person is not entitled to any monetary or other consideration for the performance or carrying out of the professional engineering services.*

### **142 Protection from liability**

*(1) This section applies to each of the following persons (a “relevant person”)—*

- (a) the Minister;*
- (b) a board member;*
- (c) an investigator;*
- (d) a person engaged, under section 45, to assist the board or an investigator.*

*(2) A relevant person is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act.*

*(3) If subsection (2) prevents a civil liability attaching to a relevant person mentioned in subsection (1)(a), the liability attaches instead to the State.*

*(4) If subsection (2) prevents a civil liability attaching to a relevant person mentioned in subsection (1)(b), (c) or (d), the liability attaches instead to the board.*

### **143 Approval of forms**

*The chief executive may approve forms for use under this Act.*

### **144 Regulation-making power**

*(1) The Governor in Council may make regulations under this Act.*

*(2) A regulation may be made about the following—*

- (a) fees, including the refunding of fees, payable under this Act;*
- (b) the procedures for electing a member of the board;*
- (c) imposing a penalty of no more than 20 penalty units for contravention of a regulation.*

*(3) Without limiting subsection (2)(a), a regulation may prescribe amounts as fees having regard to the costs of the board performing its functions under, or complying with, this Act or another Act.*

*(4) Also, without limiting section 10(1)(a),<sup>13</sup> a regulation may provide for a qualification under that paragraph by reference to subjects or areas of learning relating to engineering.*

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13 Section 10 (When applicant is qualified for registration)

## **PART 11—REPEAL AND TRANSITIONAL PROVISIONS**

### *Division 1—Repeal*

#### **145 Repeal of Professional Engineers Act 1988**

*The Professional Engineers Act 1988 (1988 Act No. 72) is repealed.*

### *Division 2—Transitional provisions*

#### *Subdivision 1—Preliminary*

#### **146 Definitions for div 2**

**“commencement”** means the commencement of the provision in which the term is used.

**“disciplinary panel”** means the Professional Engineers Disciplinary Panel established under the repealed Act.

**“former board”** means the Board of Professional Engineers of Queensland established under the repealed Act.

**“registered professional engineering company”** means an entity that, immediately before the commencement, is registered as a registered professional engineering company under part 5 of the repealed Act.

**“registered professional engineering unit”** means an entity that, immediately before the commencement, is registered as a registered professional engineering unit under part 6 of the repealed Act.

#### *Subdivision 2—Transitional references*

#### **147 References to repealed Act**

*A reference in an Act or document to the repealed Act may, if the context permits, be taken as a reference to this Act.*

**148 References to former board**

*A reference in an Act or document to the former board may, if the context permits, be taken as a reference to the board.*

**Subdivision 3—Other transitional provisions****149 Dissolution of former board**

*(1) On the commencement—*

- (a) the former board is dissolved; and*
- (b) the members of the board go out of office.*

*(2) No compensation is payable to a member because of subsection (1).*

**150 Particular members of former board continue in office**

**(1)** This section applies to a person who is a member of the former board immediately before the commencement if the person's term of appointment as a member would, other than for this section, have ended before the commencement of section 149 of this Act.

**(2)** Despite section 12<sup>14</sup> of the repealed Act, the person continues as a member of the former board until it is dissolved under section 149 of this Act.

**151 First appointment of particular member**

**(1)** *For the purpose of the first appointment of a member of the board under section 82(2)(c), the Governor in Council may appoint any person holding office under section 7 of the repealed Act before the commencement.*

**(2)** *A person appointed under subsection (1)—*

- (a) is taken to be properly appointed under section 82; and*
- (b) holds office until—*
  - (i) the end of 18 months after the commencement; or*

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14 The repealed Act, section 12 (Duration of appointment)

- (ii) *if the person, or another person, is earlier elected under section 82(2)(c)—the day the person or other person is elected.*

### **152 Employees of former board**

(1) *This section applies to a person who, immediately before the commencement, was an employee of the former board.*

(2) *On the commencement, the person becomes an employee of the board.*

(3) *The person—*

- (a) *must be employed on terms and conditions at least equivalent to the person's terms and conditions of employment immediately before the commencement; and*
- (b) *remains entitled to all rights of employment existing or accruing immediately before the commencement.*

### **153 Vesting of former board's assets, rights and liabilities**

*On the commencement, the assets, rights and liabilities of the former board vest in the board.*

### **154 Vesting of former board's pending legal proceedings**

(1) *This section applies to a legal proceeding that—*

- (a) *was taken by or against a following person before the commencement—*
- (i) *the former board;*
- (ii) *a member of the former board in the person's capacity as a member of the former board; and*
- (b) *has not been finished before the commencement.*

(2) *From the commencement, the proceeding may be continued and finished by or against the board.*

### **155 Dissolution of disciplinary panel**

(1) *On the commencement—*

- (a) *the disciplinary panel is dissolved; and*
  - (b) *the members of the panel go out of office.*
- (2) *No compensation is payable to a member because of subsection (1).*

### **156 Complaints under repealed Act**

(1) *This section applies to a complaint about an individual given to the former board under the repealed Act if the former board had not authorised an investigation of, or otherwise dealt with, the complaint under that Act before the commencement.*

- (2) *The complaint is taken to be a complaint under this Act.*

### **157 Disciplinary proceeding started before commencement**

(1) *This section applies if, under the repealed Act and before the commencement—*

- (a) *the board has laid a disciplinary charge against a registered professional engineer; and*
- (b) *a disciplinary panel has been formed to hear and decide the charge.*

(2) *The disciplinary panel may hear, or continue to hear, and decide the charge under the repealed Act as if the Act had not been repealed and the panel had not been dissolved under section 155.*

(3) *Also, for hearing the charge or doing anything else under the repealed Act in relation to the charge, a disciplinary panel member has the member's entitlements under the repealed Act.*

(4) *The repealed Act continues in force for the purposes of the panel and the proceeding, including, for example, the making of an order by the panel under section 60 of that Act.*

(5) *An order of the panel under section 60 of the repealed Act has effect as if it were an order of the tribunal under section 131 or 132 of this Act.*

(6) *For this section, a reference in the repealed Act to the board may, if necessary or desirable for the proceeding, be taken to be a reference to the board established under this Act.*



### **158 Continuing investigations**

(1) *This section applies to a person who, immediately before the commencement—*

- (a) *is authorised as an investigator under section 45<sup>15</sup> of the repealed Act; and*
- (b) *is investigating under that Act—*
  - (i) *the conduct of a registered professional engineer; or*
  - (ii) *a suspected contravention of the repealed Act by a registered professional engineer.*

(2) *On the commencement, the person is taken to be an investigator under section 48 and may continue the investigation under this Act.*

(3) *In this section—*

**“registered professional engineer”** *means a registered professional engineer under the repealed Act.*

### **159 Appeals**

(1) *Subsection (2) applies if—*

- (a) *a person has appealed to the District Court under the repealed Act before the commencement against a decision or order mentioned in section 67(1)<sup>16</sup> of the repealed Act; and*
- (b) *the appeal has not been decided before the commencement.*

(2) *The District Court may hear, or continue to hear, and decide the appeal under the repealed Act as if the Act had not been repealed.*

(3) *Subsection (4) applies if—*

- (a) *immediately before the commencement a person could have appealed to the District Court under the repealed Act against a decision or order mentioned in section 67(1) of the repealed Act; and*
- (b) *the person has not appealed before the commencement.*

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15 The repealed Act, section 45 (Board may authorise investigation)

16 The repealed Act, section 67 (Appeals)

*(4) The person may appeal, and the District Court may hear and decide the appeal, under the repealed Act as if this Act had not commenced.*

*(5) For giving effect to its decision under subsection (2) or (4), the District Court may make the orders it considers necessary having regard to the provisions of this Act.*

*Example for subsection (5)—*

*On an appeal by a person against a decision to cancel the person's registration under the repealed Act, the District Court may order that the board register the person under this Act.*

### **160 Existing registrations—individuals**

*(1) This section applies to an individual who, immediately before the commencement, was a registered professional engineer under the repealed Act.*

*(2) On the commencement, the individual is taken to be a registered professional engineer under this Act.*

*(3) Despite section 15,<sup>17</sup> the registration remains in force, unless it is sooner cancelled, until the later of the following days—*

*(a) 31 December first happening after the commencement;*

*(b) the day that is 3 months after the commencement.*

*(4) However, if the individual pays the registration fee to the board before the day on which the registration would have ended under subsection (3), the registration remains in force until the last day of the financial year in which the registration would otherwise have ended under the subsection.*

*(5) For the individual's first application for renewal or restoration of registration, the individual must state the areas of engineering for which the individual reasonably believes he or she is qualified for registration.*

*(6) In this section—*

**“registration fee”** means the registration fee prescribed under section 8(2)(b)(iv) for registration for not more than 6 months.

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17 Section 15 (Period of registration)

**161 Existing registrations—divisions of engineering**

(1) *This section applies—*

- (a) *to an individual who, immediately before the commencement, was a registered professional engineer under the repealed Act; and*
- (b) *until the day on which the individual's registration is first renewed or restored under this Act.*

(2) *For part 7 of this Act, the division of engineering in which the individual was registered under the repealed Act is taken to be the area of engineering for which the individual is registered under this Act.*

**162 Existing registrations—other entities**

(1) *This section applies to the following entities—*

- (a) *a registered professional engineering company;*
- (b) *a registered professional engineering unit.*

(2) *On the commencement, the entity's registration under part 5 or 6 of the repealed Act ceases to have effect.*

**163 Existing applications for registration**

(1) *This section applies to an application for registration as a registered professional engineer under the repealed Act and not decided before the commencement.*

(2) *The application must be decided under this Act.*

**164 Continuing effect of qualifications under repealed Act**

(1) *Subsection (2) applies—*

- (a) *despite the repeal of the repealed Act; and*
- (b) *only until a regulation provides for the qualifications and competencies in the practice of engineering under section 10(1) of this Act.*

(2) *A person is taken to be qualified for registration under section 10(1) if the person complies with the requirements for registration under section 18(a) or (b) of the repealed Act.*

**165 Refund of fees—registered professional engineering company or unit**

(1) As soon as practicable after the commencement, the board must refund to each registered professional engineering company and registered professional engineering unit an amount calculated using the formula—

$$A = F - \left( B + \left( \frac{F}{12} \times C \right) \right)$$

(2) In this section—

“A” means the amount to be refunded.

“B” means a reasonable amount, decided by the board, for administrative costs incurred by the board in refunding the amount under this section.

“C” means the number of whole months for which the company or unit was registered as a professional engineering company or unit in the relevant period in which this section commences.

“F” means—

(a) if the company or unit applied for registration as a registered professional engineering company or unit in the year in which this section commences—\$195; or

(b) if the company or unit applied for renewal of its registration as a registered professional engineering company or unit in the year in which this section commences—\$121.

“relevant period” means the period from 1 April in a year to 31 March in the following year.

## **PART 12—CONSEQUENTIAL AMENDMENTS**

### **166 Acts amended**

Schedule 1 amends the Acts mentioned in it.

**SCHEDULE 1****CONSEQUENTIAL AMENDMENTS***section 166***DOMESTIC BUILDING CONTRACTS ACT 2000****1 Schedule 2, definition “engineer”, ‘Professional Engineers Act 1988’—***omit, insert—**‘Professional Engineers Act 2002’.***QUEENSLAND BUILDING SERVICES AUTHORITY ACT  
1991****2 Schedule 2, definition “engineer”, ‘Professional Engineers Act 1988’—***omit, insert—**‘Professional Engineers Act 2002’.***SUBCONTRACTORS’ CHARGES ACT 1974****3 Section 10A(1)(b)—***omit, insert—**‘(b) a registered professional engineer under the Professional Engineers Act 2002’.*

**SCHEDULE 2****DICTIONARY**

section 7

**“affected by bankruptcy action”**, in relation to an individual, means the individual—

- (a) is bankrupt; or
- (b) has compounded with creditors; or
- (c) as a debtor, has otherwise taken, or applied to take, advantage of any law about bankruptcy.

**“affected by control action”**, in relation to a corporation, means the corporation—

- (a) has executed a deed of company arrangement under the Corporations Act; or
- (b) is the subject of a winding-up, whether voluntarily or under a court order, under that Act; or
- (c) is the subject of an appointment of an administrator, liquidator, receiver or receiver and manager under that Act.

**“annual registration fee”** means the fee prescribed under a regulation to be the annual registration fee.

**“approved code of practice”** means the code of practice having effect under section 108(3).

**“approved form”** means a form approved under section 143.

**“area of engineering”** means an area of engineering prescribed under a regulation.

*Examples of an area of engineering—*

- civil engineering
- mechanical engineering.

## SCHEDULE 2 (continued)

**“assessment entity”**—

- (a) for assessing an individual against the qualifications or competencies provided for under section 10(1)—see section 10(3); and
- (b) for assessing an individual against the continuing competency requirements—see section 16(3).

**“board”** means the Board of Professional Engineers of Queensland established under this Act.

**“certificate of registration”** means a certificate of registration as a registered professional engineer.

**“chairperson”** means the chairperson of the board.

**“complainant”** means a person who makes a complaint.

**“complaint”** means a complaint made under section 37(1).

**“contact details”**, of a registered professional engineer, means the registered professional engineer’s business address, telephone number, facsimile number or e-mail address notified to the board by the engineer.

**“continuing competency requirements”** see section 16(1).

**“criminal history”**, of a person, means the convictions, other than spent convictions, recorded against the person for offences, in Queensland or elsewhere, whether before or after the commencement of this Act.

**“deputy chairperson”** means the deputy chairperson of the board.

**“disciplinary ground”** see section 36.

**“disciplinary proceeding”** see section 127.

**“executive officer”**, of a corporation affected by control action, means a person who was an executive officer of the corporation when it became affected by control action or within 1 year before it became affected by the action if 5 years have not elapsed since it became affected by the action.

**“executive officer”**, of a corporation, means a person who is concerned with, or takes part in, the corporation’s management, whether the person is a director or the person’s position is given the name of executive officer.

## SCHEDULE 2 (continued)

**“expiry day”** see section 18(2).

**“indictable offence”** includes an indictable offence dealt with summarily.

**“information”** includes a document.

**“information notice”**, for a decision of the board, means a notice stating the following—

- (a) the decision;
- (b) the reasons for it;
- (c) that the person to whom the notice is given may apply to the tribunal for a review of the decision within 28 days after the person receives the notice;
- (d) how the person may apply to the tribunal.

**“institution”** see section 82(2)(b).

**“investigator”** means a person appointed as an investigator under section 48(1).

**“member”** means a member of the board.

**“notice”** means a written notice.

**“order”**, in relation to section 60 of the repealed Act, includes a caution or reprimand given under that section.

**“performance agreement”** see section 99(1).

**“prescriptive standard”** means a document that states procedures or criteria—

- (a) for carrying out a design, or a construction or production activity, relating to engineering; and
- (b) the application of which, to the carrying out of the design, or the construction or production activity, does not require advanced scientifically based calculations.

*Examples—*

- A timber framing manual, as in force from time to time, published by the Timber Research and Development Advisory Council of Queensland
- AS/NZS 3000:2000 — Electrical installations (known as the Australian/New Zealand Wiring Rules).



## SCHEDULE 2 (continued)

**“professional engineering service”** means an engineering service that requires, or is based on, the application of engineering principles and data to a design, or to a construction or production activity, relating to engineering, and does not include an engineering service that may be provided in accordance with a prescriptive standard.

**“regional Queensland”** means the area of the State other than—

- (a) the Beaudesert, Boonah, Brisbane, Caboolture, Caloundra, Crows Nest, Esk, Gatton, Gold Coast, Ipswich, Kilcoy, Laidley, Logan, Maroochy, Noosa, Pine Rivers, Redcliffe and Redland local government areas; and
- (b) the area of the City of Brisbane.

**“register”** means the register kept under section 102.

**“registered professional engineer”** means a person registered as a registered professional engineer under this Act.

**“registrar”** means the registrar of the board.

**“registration”** means registration under part 2.

**“registration period”** see section 15(1).

**“repealed Act”** means the *Professional Engineers Act 1988*.

**“spent conviction”** means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

**“tribunal”** means the Queensland Building Tribunal established under the Tribunal Act.

**“Tribunal Act”** means the *Queensland Building Tribunal Act 2000*.

**“unsatisfactory professional conduct”**, for a registered professional engineer, includes the following—

- (a) conduct that is of a lesser standard than that which might reasonably be expected of the registered professional engineer by the public or the engineer’s professional peers;

## SCHEDULE 2 (continued)

- (b) conduct that demonstrates incompetence, or a lack of adequate knowledge, skill, judgment or care, in the practice of engineering;
- (c) misconduct in a professional respect;
- (d) fraudulent or dishonest behaviour in the practice of engineering;
- (e) other improper or unethical conduct.

## 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). However, no amendments have commenced operation on or before that day. Future amendments of the Professional Engineers Act 2002 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

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

## **4 List of legislation**

### **Professional Engineers Act 2002 No. 54**

date of assent 1 November 2002

ss 1–2, pt 1 div 4, pt 11 div 2 sdiv 1, s 150, sch 2 commenced on date of assent (see s 2(1)(a)–(d))

remaining provisions commence 1 January 2003 (see s 2(2))