

Queensland



**PROFESSIONAL
ENGINEERS AMENDMENT
BILL 1992**

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PROFESSIONAL ENGINEERS AMENDMENT BILL 1992

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1992

A BILL

FOR

An Act to amend the Professional Engineers Act 1988

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with
the advice and consent of the Legislative Assembly of Queensland in
Parliament assembled, and by the authority of the same, as follows.

Short title

Clause1. This Act may be cited as the *Professional Engineers Amendment Act 1992*.

Amended Act

Clause2. The *Professional Engineers Act 1988* is amended as set out in this Act.

Amendment of s.5 (Interpretation)

Clause3. Section 5—

insert—

‘ “investigator” means a person authorised under section 45 to carry out an investigation on behalf of the Board;

“registered professional engineering unit” means a unit of registered professional engineers that is registered under Part 6;’.

Replacement of s.12 (Tenure of members)

Clause4. Section 12—

omit, insert—

‘Duration of appointment

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

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

‘Terms of appointment	1
‘12A.(1) A member holds office on a part-time basis.	2
‘(2) A member is to be paid the remuneration and allowances determined by the Governor in Council.	3 4
‘(3) A member holds office on terms not provided in this Act as are determined by the Governor in Council.’.	5 6
 Replacement of Part 3 (Registers)	 7
<i>Clause 5. Part 3—</i>	8
<i>omit, insert—</i>	9
 ‘PART 3—REGISTERS	 10
 ‘Registers to be kept	 11
‘17.(1) The Board must keep—	12
(a) a register of professional engineers; and	13
(b) a register of professional engineering companies; and	14
(c) a register of professional engineering units.	15
‘(2) The register of professional engineers must contain—	16
(a) the full name and address of each registered professional engineer; and	17 18
(b) the division of engineering to which each registration relates; and	19
(c) such other particulars as are prescribed by regulation or that the Board considers necessary.	20 21
‘(3) The register of professional engineering companies must contain—	22
(a) the full name and address of each registered professional engineering company; and	23 24
(b) such other particulars as are prescribed by regulation or that the Board considers necessary.	25 26
‘(4) The register of professional engineering units must contain—	27

(a) the full name and address of each registered professional engineering unit; and	1 2
(b) the person who is to be in charge of the unit; and	3
(c) each person who is to be in charge of the unit during the absence of the person mentioned in paragraph (b); and	4 5
(d) such other particulars as are prescribed by regulation or that the Board considers necessary.	6 7
‘Publication of roll	8
‘17A. The Board must, as soon as practicable after—	9
(a) 1 January in each year—publish in the Gazette a copy of the register mentioned in section 17(1)(a) as at 1 January in that year; and	10 11 12
(b) 1 April in each year—publish in the Gazette a copy of the registers mentioned in section 17(1)(b) and (c) as at 1 April in that year.’.	13 14 15
Replacement of s.20 (Applications for registration)	16
Clause6. Section 20—	17
omit, insert—	18
‘Applications for registration	19
‘20.(1) An application for registration under this Part is to be made to the Board in the form approved by the Board.	20 21
‘(2) The application must be accompanied by the prescribed fee.’.	22
Replacement of s.22 (Certificates of registration)	23
Clause7. Section 22(1)—	24
omit, insert—	25
‘Certificate of registration	26
‘22.(1) If the Board registers a professional engineer under this Part, the	27

Board must issue a certificate of registration.	1
‘(2) The Board must issue to a registered professional engineer a practising certificate for each year after the first year of registration on payment of the roll fee for the year.	2 3 4
‘(3) The certificate of registration and the practising certificate are to be in a form approved by the Board.’.	5 6
Omission of s.24 (Publication of roll of professional engineers)	7
<i>Clause8.</i> Section 24—	8
<i>omit.</i>	9
Omission of s.25 (Appeals against refusal to register)	10
<i>Clause9.</i> Section 25—	11
<i>omit.</i>	12
Amendment of s.26 (Removal from register of registered professional engineers)	13 14
<i>Clause10.</i> Section 26(5)—	15
<i>omit.</i>	16
Replacement of s.28 (Restoration of name)	17
<i>Clause11.</i> Section 28—	18
<i>omit, insert—</i>	19
‘Restoration	20
‘28.(1) The Board may, on payment of the prescribed fee, restore to the register of professional engineers the name of a professional engineer that has been removed from the register.	21 22 23
‘(2) The Board must restore the name of a professional engineer to the register if directed to do so by the District Court.’.	24 25

Replacement of s.31 (Applications for registration)	1
<i>Clause</i> 12. Section 31—	2
<i>omit, insert—</i>	3
‘Applications for registration	4
‘31.(1) An application for registration under this Part is to be made to the Board in the form approved by the Board.	5
	6
‘(2) The application must be accompanied by the prescribed fee.’.	7
 Replacement of s.33 (Certificate of registration)	8
<i>Clause</i> 13. Section 33—	9
<i>omit, insert—</i>	10
‘Certificate of registration	11
‘33.(1) If the Board registers a professional engineering company under this Part, the Board must issue a certificate of registration.	12
	13
‘(2) The certificate is to be in a form approved by the Board.	14
‘(3) Registration takes effect on the day the certificate is issued and continues in force until the following 31 March.’.	15
	16
 Omission of s.35 (Publication of roll of professional engineering companies)	17
	18
<i>Clause</i> 14. Section 35—	19
<i>omit.</i>	20
 Amendment of s.36 (Returns by registered professional engineering companies)	21
	22
<i>Clause</i> 15. Section 36(2)—	23
<i>omit, insert—</i>	24
‘(2) A registered professional engineering company must not—	25
(a) fail to comply with subsection (1); or	26

(b) lodge a notice under subsection (1) that is false or misleading in any respect.	1 2
Maximum penalty—40 penalty units.’.	3
Omission of s.37 (Appeals against refusal to register)	4
<i>Clause</i> 16. Section 37—	5
<i>omit.</i>	6
Amendment of s.38 (Removal from register of registered professional engineering companies)	7 8
<i>Clause</i> 17. Section 38(5)—	9
<i>omit.</i>	10
Replacement of s.40 (Restoration of name)	11
<i>Clause</i> 18. Section 40—	12
<i>omit, insert—</i>	13
‘Restoration	14
‘40.(1) The Board may, on payment of the prescribed fee, restore to the register of professional engineering companies the name of a professional engineering company that has been removed from the register.	15 16 17
‘(2) The Board must restore the name of a professional engineering company to the register if directed to do so by the District Court.’.	18 19
Replacement of Parts 6 to 8	20
<i>Clause</i> 19. Parts 6 to 8—	21
<i>omit, insert—</i>	22

‘PART 6—REGISTERED PROFESSIONAL ENGINEERING UNITS

‘Board may register professional engineering units

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

‘Conditions of registration

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

- (a) the corporation is incorporated in Australia; and
- (b) the person in charge, on behalf of the corporation, of the corporation’s professional engineering services at each office of the corporation in Queensland where the service is provided—
 - (i) is a registered professional engineer; and
 - (ii) is authorised by the corporation to have responsibility for ensuring that the operations of the unit are conducted in a way that complies with this Act; and
- (c) the corporation takes out and maintains the prescribed insurance cover.

‘Applications for registration

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

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

‘Certificate of registration

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

‘(2) The certificate—

(a) must be in a form approved by the Board; and	1
(b) must state the name of—	2
(i) the unit; and	3
(ii) the corporation of which the unit is part.	4
‘(3) Registration takes effect on the day the certificate is issued and continues in force until the following 31 March.	5 6
‘Renewal of registration	7
‘40E.(1) A corporation that has a registered professional engineering unit must apply for renewal of the unit’s registration not later than 1 month before the registration expires.	8 9 10
‘(2) The application must—	11
(a) be made in the form approved by the Board; and	12
(b) be accompanied by the prescribed fee.	13
‘(3) The Board may renew or refuse to renew the registration.	14
‘(4) The Board may refuse to renew a unit’s registration under subsection (3) only if the corporation is given a reasonable opportunity to show cause why renewal of the unit’s registration should not be refused.	15 16 17
‘(5) If the corporation does not apply for renewal of the unit’s registration within the time mentioned in subsection (1), the registrar must immediately notify the corporation that, if an application for renewal of the unit’s registration is not made on or before 31 March, the Board may remove the unit’s name from the register.	18 19 20 21 22
‘Removal from register	23
‘40F.(1) If a registered professional engineering unit’s registration is not renewed, the Board may remove the unit’s name from the register of professional engineering units.	24 25 26
‘(2) The Board must remove a registered professional engineering unit’s name from the register of professional engineering units—	27 28

(a) on the written application of the corporation of which the unit is part; or	1 2
(b) if renewal of the unit's registration is refused.	3
'(3) If the Board acts under—	4
(a) subsection (1) or (2)(a)—the Board must give notice of the removal in the Gazette not later than 28 days after the removal; or	5 6
(b) subsection (2)(b)—the Board must give notice of the removal in the Gazette not sooner than 28 days after the removal.	7 8
'(4) If an appeal against a refusal to renew a unit's registration is lodged, the Board must not give notice under subsection (3)(b) until the appeal is finally determined.	9 10 11
 'Return of certificate	 12
'40G. A corporation must, within 14 days after publication of a notice under section 40F, return the certificate of registration of its professional engineering unit to the Board.	13 14 15
Maximum penalty—20 penalty units.	16
 'Restoration	 17
'40H.(1) The Board may, on payment of the prescribed fee, restore to the register of professional engineering units the name of a professional engineering unit that has been removed from the register.	18 19 20
'(2) The Board must restore the name of a professional engineering unit to the register if directed to do so by the District Court.	21 22
 'Change in person in charge of registered professional engineering unit	 23 24
'40L.(1) If a person ceases to be in charge, or to be entitled to be in charge, on behalf of a corporation, for the corporation's registered professional engineering unit, the corporation must, within 28 days, notify the registrar of that fact and of the name of the registered professional engineer who is in charge of the unit.	25 26 27 28 29

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

Maximum penalty—40 penalty units.

‘PART 7—PROHIBITED PRACTICES

‘Prohibited practices

‘41.(1) A person who is not—

- (a) a registered professional engineer; or
- (b) a registered professional engineering company; or
- (c) a corporation whose professional engineering unit is registered under Part 5A; or
- (d) an unincorporated association or body all of whose members are registered professional engineers;

must not undertake professional engineering services for fee or reward.

Maximum penalty—40 penalty units.

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

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

if—

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

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

- (a) take or use, or by reference adopt, the name, title, word, symbol or description of registered professional engineer (either alone or

in combination with another name, title, word, symbol or description); or	1 2
(b) advertise that the person is willing to undertake professional engineering services or is skilled in professional engineering; or	3 4
(c) advertise or hold himself, herself or itself out as being a consultant with respect to professional engineering or a division of professional engineering.	5 6 7
Maximum penalty—40 penalty units.	8
‘(4) A person who—	9
(a) in any way pretends to be, or to possess the status of, a consultant; or	10 11
(b) takes or uses, or by inference adopts, the name, title, word, symbol or description of a consultant (either alone or in combination with another name, title, word, symbol or description); or	12 13 14 15
(c) takes or uses, or by inference adopts, another name, title or description that implies, is calculated to imply, or is likely to imply, that the person is a consultant;	16 17 18
with respect to professional engineering or a division of professional engineering, is taken to hold himself, herself or itself out as being a consultant with respect to professional engineering or a division of professional engineering.	19 20 21 22
‘(5) A person (other than a person mentioned in subsection (1)(a), (b) or (c)) must not have attached to, or exhibited at, the person’s place of business or residence, or otherwise use, a name, title, word, symbol or description that (either alone or in combination with another name, title, word, symbol or description) that implies, is calculated to imply, or is likely to imply, the person is a person mentioned in subsection (1)(a), (b) or (c).	23 24 25 26 27 28
Maximum penalty—40 penalty units.	29
‘(6) A person (other than a registered professional engineer) must not—	30
(a) advertise or hold himself, herself or itself out as being a registered professional engineer; or	31 32

(b) allow another person to advertise or hold the person out as being a registered professional engineer.	1 2
Maximum penalty—40 penalty units.	3
‘Registered name to be used	4
‘42. A registered professional engineering company or professional engineering unit must not take, use or adopt, in connection with professional engineering, or the practice of professional engineering, a name other than the name shown in the company’s or unit’s certificate of registration.	5 6 7 8 9
Maximum penalty—40 penalty units.	10
‘PART 8—COMPLAINTS AND DISCIPLINE	11
‘Interpretation	12
‘43. In this Part—	13
“client” of a registered person means a person for whom the registered person agrees to perform professional engineering services (whether or not for fee or reward);	14 15 16
“commission” means a written or other agreement by which a registered person undertakes to provide professional engineering services for a client;	17 18 19
“company” means a registered professional engineering company;	20
“registered person” means—	21
(a) a registered professional engineer; or	22
(b) a registered professional engineering company; or	23
(c) a registered professional engineering unit.	24

‘Complaints

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

‘Board may authorise investigation

‘45.(1) The Board may—

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

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

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

‘(4) The investigator must—

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

‘(5) The investigator must give—

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

‘Powers of investigator

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

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

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

- (a) examine the document or thing; and
- (b) make copies of, or take extracts from, the document or photograph the thing; and
- (c) if the investigator reasonably considers it necessary to do so—keep the document or thing—
 - (i) for 60 days; or
 - (ii) if a prosecution for an offence against this Act of which the document or thing may afford evidence is instituted within that period—until the completion of the proceeding for the offence and any appeal in relation to the proceeding.

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

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

Maximum penalty—20 penalty units.

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

‘Entry and search—evidence of offences

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

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

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

- (a) the investigator may seize the evidence; and
- (b) the investigator may keep the evidence—
 - (i) for 6 months; or
 - (ii) if a prosecution for an offence against this Act in the commission of which the evidence may have been used or otherwise involved is instituted within that period—until the completion of the proceeding for the offence and any appeal in relation to the proceeding; and
- (c) if the evidence is a document—while the investigator has possession of the document, the investigator—
 - (i) may take extracts from and make copies of the document; and
 - (ii) must allow the document to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the investigator’s possession.

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

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

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

‘(5) Subsection (4) applies only if the investigator believes, on reasonable grounds, that—	1 2
(a) the secondary evidence will afford evidence of the commission of—	3 4
(i) the offence mentioned in subsection (1); or	5
(ii) another offence against this Act; and	6
(b) it is necessary to seize the secondary evidence to prevent—	7
(i) its concealment, loss or destruction; or	8
(ii) its use in committing, continuing or repeating either of the offences.	9 10
 ‘General powers of investigator in relation to places	 11
‘48.(1) An investigator who enters a place under section 47 may exercise any of the following powers—	12 13
(a) search any part of the place;	14
(b) inspect, examine, photograph or film anything in the place;	15
(c) take extracts from, and make copies of, any documents in the place;	16 17
(d) take into the place persons, equipment and materials that the investigator reasonably requires for the purpose of exercising any powers in relation to the place;	18 19 20
(e) require—	21
(i) the occupier of the place; or	22
(ii) any person in the place;	23
to give to the investigator reasonable assistance in relation to the exercise of the powers mentioned in paragraphs (a) to (d).	24 25
‘(2) A person must not, without reasonable excuse, fail to comply with a requirement under subsection (1)(e).	26 27
Maximum penalty—20 penalty units.	28
‘(3) It is a reasonable excuse for a person to fail—	29

(a) to answer a question; or	1
(b) to produce a document;	2
if answering the question, or producing the document, might tend to incriminate the person.	3 4
‘(4) An investigator who, in the exercise of a power under this Part, seizes or damages a thing must, as soon as practicable, give written notice of the seizure or damage.	5 6 7
‘(5) The notice must be given to—	8
(a) for a seizure—the person from whom the thing was seized; or	9
(b) for damage—the person who appears to the investigator to be the owner of the thing.	10 11
‘(6) A person who incurs any loss or expense—	12
(a) because of the exercise or purported exercise of a power under this Part; or	13 14
(b) in complying with a requirement made of the person under this Part;	15 16
may claim compensation from the Board.	17
‘(7) A payment of compensation may be claimed and ordered—	18
(a) in a proceeding for compensation brought in a court of competent jurisdiction for the recovery of compensation; or	19 20
(b) during a proceeding for an offence against this Act brought against the person by whom the claim is made.	21 22
‘(8) A court may order the payment of compensation for the loss or expense only if it is satisfied that it is just to do so in the circumstances of the particular case.	23 24 25
‘Offence related warrants	26
‘49.(1) An investigator may apply to a Magistrate for a warrant under this section in relation to a particular place.	27 28
‘(2) Subject to subsection (3), the Magistrate may issue the warrant if the Magistrate is satisfied, by information on oath, that there are reasonable	29 30

grounds for suspecting that there is, or there may be within the next 7 days,
in the place a particular thing that may afford evidence of the commission of
an offence against the Act.

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

‘(4) The warrant must—

(a) authorise the investigator, with such assistance and by such force
as is necessary and reasonable—

(i) to enter the place; and

(ii) to exercise the powers set out in section 48; and

(iii) to seize the evidence; and

(b) state whether the entry is authorised to be made—

(i) at any time of the day or night; or

(ii) during specified hours of the day or night; and

(c) specify the day (not more than 14 days after the issue of the
warrant) on which the warrant ceases to have effect; and

(d) state the purpose for which the warrant is issued.

‘Charge of offence may be laid

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

‘Disciplinary charge may be laid

‘51.(1) If the investigator considers that a prima facie case is made out
against a registered person, the investigator may lay a disciplinary charge
against the person on the ground that—

(a) the person has been convicted (whether in Queensland or elsewhere) of—	1 2
(i) an indictable offence; or	3
(ii) another offence;	4
that renders the person unfit to be a registered person; or	5
(b) the person fraudulently obtained registration under this Act; or	6
(c) the person is not a fit and proper person to be a registered person;	7
or	8
(d) the person is guilty of misconduct in a professional respect; or	9
(e) disciplinary action is being, or has been taken, against the person as—	10 11
(i) executive officer of a registered professional engineering company; or	12 13
(ii) a person who is in charge of a registered professional engineering unit; or	14 15
(f) the person no longer fulfils the requirements for registration under the Act; or	16 17
(g) if the person is an individual—the person’s membership of an institution or society established for the purpose of promoting the study and practice of the profession of engineering has been suspended or cancelled for reasons other than the non-payment of fees.	18 19 20 21 22
‘(2) A copy of the charge is to be given to the Board and to the person charged.	23 24
‘(3) The Board may—	25
(a) take disciplinary action against the person; or	26
(b) take no further action.	27
‘(4) If the Board acts under—	28
(a) subsection (3)(a)—the Board must—	29
(i) start proceedings against the person charged; and	30

(ii) notify the person charged of the day, time and place of the proceeding; or	1 2
(b) subsection (3)(b)—the Board must notify the person charged of the Board’s decision.	3 4
‘(5) In subsection (1)—	5
“misconduct in a professional respect” includes—	6
(a) performing, in connection with a commission, work that is outside the person’s area of professional competence; and	7 8
(b) attempting to perform, in connection with a commission, work that is outside the person’s area of professional competence; and	9 10
(c) allowing a person who is not a partner of a registered person to practise in the registered person’s name; and	11 12
(d) intentionally doing an act or making an omission, in connection with a commission, that prejudices a client’s interests or rights under the commission; and	13 14 15
(e) directly or indirectly—	16
(i) giving or offering to a person; or	17
(ii) agreeing to give or offer to a person;	18
valuable consideration as a reward or inducement for the person securing or attempting to secure a commission for the registered person; and	19 20 21
(f) undertaking or agreeing to undertake a commission in connection with a matter the subject of a dispute, if the fee or reward for the commission depends in any way on whether or not the dispute is resolved in favour of the client; and	22 23 24 25
(g) providing professional engineering services in connection with a utility, structure, building, machine, equipment, process, work or project of which the unit is the constructor, without the client’s written consent.	26 27 28 29
‘Proceedings	30
‘52.(1) A proceeding of the Board is open to the public only if—	31

(a) the Board so determines; or 1

(b) the registered person concerned requires it. 2

‘(2) In a proceeding, the investigator is entitled to give evidence, in a way 3
acceptable to the Board, of the findings and the investigator’s opinions 4
based on the findings. 5

‘Records 6

‘53. The Board must keep a record of its proceedings. 7

‘Procedure 8

‘54.(1) A proceeding before the Board is to be conducted with as little 9
formality and technicality, and with as much speed, as a fair and proper 10
consideration of the matters before the Board permits. 11

‘(2) In a proceeding, the Board is not bound by the rules or practices 12
about evidence, but may inform itself of any matter in any way that it 13
considers appropriate. 14

‘(3) The Board must observe the rules of natural justice. 15

‘(4) Subject to subsections (1) to (3), the chairperson may give directions 16
as to the procedure to be followed in a proceeding. 17

‘Representation 18

‘55. Without limiting section 54(3), in the conduct of a proceeding, the 19
Board must give the registered person charged a reasonable opportunity of 20
defending all allegations either in person or by counsel or solicitor. 21

‘Powers of Board 22

‘56.(1) In a proceeding, the Board may— 23

(a) by written notice, require a person to attend before the Board at a 24
specified time and place— 25

(i) to give evidence; or 26

(ii) to produce a specified document or thing; and 27

(b) require a person appearing before the Board to give evidence
either to take an oath or make an affirmation and, for that
purpose, the chairperson may administer an oath or affirmation;
and

(c) proceed in the absence of the person charged if the person has
had reasonable notice of the proceeding.

‘(2) The Board may adjourn the proceeding from time to time.

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

‘Inspection of documents

**‘57.(1) If a document or thing is produced to the Board, the Board
may—**

(a) examine the document or thing; and

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

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

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

(a) to examine the document or thing; or

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

at such reasonable time and place as the Board determines.

‘Offences—proceedings

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

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

(b) to continue to attend as required by the chairperson until excused from further attendance; or	1 2
(c) to produce a document or thing that is specified in the notice.	3
Maximum penalty—8 penalty units.	4
‘(2) A person appearing as a witness in a proceeding must not fail—	5
(a) to take an oath, or make an affirmation, when required to do so by the chairperson; or	6 7
(b) without reasonable excuse, to answer a question when required to do so by the chairperson.	8 9
Maximum penalty—8 penalty units.	10
‘(3) A person who appears as a witness before the Board is entitled to be paid the prescribed allowance for attendance at the hearing.	11 12
‘Self-incrimination a reasonable excuse	13
‘59. A person is not required—	14
(a) to produce to the Board a document or thing; or	15
(b) to answer a question asked by a member of the Board;	16
if producing the document or thing, or answering the question, might tend to incriminate the person.	17 18
‘Board may order cancellation of registration, etc.	19
‘60.(1) If the Board finds a registered person guilty of the charge made against the person, the Board may—	20 21
(a) take no action; or	22
(b) caution the person; or	23
(c) reprimand the person; or	24
(d) order the person to pay to the Board, by way of penalty, an amount (not more than 40 penalty units) fixed by the Board; or	25 26
(e) order that the person’s registration be cancelled; or	27

(f) order that the person be disqualified from obtaining registration under this Act indefinitely or for a specified period; or	1 2
(g) if the registered person is—	3
(i) the executive officer of a registered professional engineering company; or	4 5
(ii) the person in charge of a registered professional engineering unit;	6 7
who the Board has found is not a fit and proper person to be a registered person, order—	8 9
(iii) that the person be disqualified from holding office as an executive officer or person in charge indefinitely or for a specified period; or	10 11 12
(iv) that the company's or unit's certificate of registration be withdrawn until such time as the Board is satisfied that the registered person is no longer a person mentioned in subparagraph (i) or (ii).	13 14 15 16
‘(2) If the Board makes an order under subsection (1)(e), the Board must remove the person's name from the register in which that name appears.	17 18
‘(3) The Board may order the person to pay to the Board the amount of the costs of and incidental to the proceeding, including the cost of the investigation that preceded the proceeding.	19 20 21
‘(4) If the Board makes an order under subsection (1)(d), the order may contain a direction that the person's registration be suspended for a specified period if the person fails to pay the penalty within a specified time.	22 23 24
‘(5) If the person does not pay the amount ordered within the time specified, the person's registration is suspended for the period specified in the direction.	25 26 27
‘Effect of removal etc. of certificate	28
‘61.(1) A person whose name is removed from a register under section 60 ceases to be a registered person.	29 30
‘(2) A person—	31
(a) whose certificate of registration is withdrawn; or	32

(b) whose registration is suspended;	1
under section 60 is taken not to be a registered person while the certificate is withdrawn or the registration is suspended.	2 3
‘Publication of decision	4
‘62.(1) If the Board cancels a registered person’s registration under section 60, the Board must give notice of the decision in the Gazette.	5 6
‘(2) The notice must be published no sooner than 28 days after the decision.	7 8
‘(3) If an appeal against the decision is instituted, the notice must not be published unless the appeal is finally determined.	9 10
‘Surrender of certificate	11
‘63. A person whose certificate of registration is cancelled must surrender the certificate to the Board within 14 days after the publication of a notice under section 62.	12 13 14
Maximum penalty—20 penalty units.	15

‘PART 9—MISCELLANEOUS

‘Issue of duplicate certificate	17
‘64.(1) The Board may, on application made to it in the form approved by the Board, and payment of the prescribed fee, issue a replacement certificate of registration.	18 19 20
‘(2) The Board must not issue a replacement certificate unless it is satisfied that the original of the certificate has been lost or destroyed.	21 22
‘(3) If the certificate relates to—	23
(a) a registered professional engineering company—the application must be made by the executive officer of the company; or	24 25

(b) a registered professional engineering unit—the application must be made by the person in charge of the unit.	1 2
‘(4) The Board must endorse on the certificate the reasons for the issue of the certificate.	3 4
‘Unauthorised dealing with register	5
‘65. Unless authorised by this Act, a person must not—	6
(a) make an entry in a register; or	7
(b) alter an entry in a register; or	8
(c) remove a name from a register; or	9
(d) restore a person’s name to a register.	10
Maximum penalty—40 penalty units.	11
‘False statements	12
‘66.(1) A person must not—	13
(a) make a statement to the Board that the person knows is false or misleading in a material particular; or	14 15
(b) omit from a statement made to the Board anything without which the statement is, to the person’s knowledge, misleading in a material particular; or	16 17 18
(c) give to the Board a document containing information that the person knows is false, misleading or incomplete in a material particular without, at the same time—	19 20 21
(i) indicating that the document is false, misleading or incomplete and the respect in which it is false, misleading or incomplete; and	22 23 24
(ii) giving correct information if the person has, or can reasonably obtain, the correct information.	25 26
Maximum penalty—40 penalty units.	27

‘(2) A complaint against a person for an offence against subsection (1)(a) 1
or (b) is sufficient if it states that the information given was false or 2
misleading to the person’s knowledge. 3

‘Appeals 4

‘67.(1) A person aggrieved by— 5

(a) a refusal by the Board of the person’s application for registration 6
under the Act; or 7

(b) a refusal by the Board to renew a person’s registration under the 8
Act; or 9

(c) a refusal by the Board to restore the person’s name to a register; 10
or 11

(d) a reprimand or other disciplinary order of the Board; 12

may appeal to a District Court Judge. 13

‘(2) The appeal— 14

(a) must be instituted— 15

(i) within 28 days after the person receives notice of the 16
decision; and 17

(ii) by filing a notice of appeal in the appropriate registry of the 18
District Court; and 19

(b) is by way of rehearing on the material before the Board or, if the 20
Judge hearing the appeal so orders, on material submitted on the 21
appeal, or on both. 22

‘(3) The Judge may— 23

(a) if the appeal is made under subsection (1)(a)— 24

(i) allow the appeal and order the Board to register the person as a 25
professional engineer, professional engineering company or 26
professional engineering unit; or 27

(ii) dismiss the appeal; or 28

(b) if the appeal is made under subsection (1)(b)— 29

(i) allow the appeal and order the Board to renew the person's registration under the Act; or	1 2
(ii) dismiss the appeal; or	3
(c) if the appeal is made under subsection (1)(c)—	4
(i) allow the appeal and order the Board to restore the person's name to the register; or	5 6
(ii) dismiss the appeal; or	7
(d) if the appeal is made under subsection (1)(d)—	8
(i) allow the appeal; or	9
(ii) allow the appeal and make any other order that the Board may make under section 60(1)(a) to (e), (3) or (4); or	10 11
(iii) dismiss the appeal.	12
‘(4) If on appeal an order is made for payment of a monetary penalty by the appellant, the payment is to be made to the Board and, for purposes of enforcement, the order is taken to be an order of the Board under section 60.	13 14 15
‘Proceedings on behalf of Board	16
‘68.(1) A proceeding in a court in the name of the Board may be instituted by the chairperson, the registrar or another person authorised in writing by the chairperson.	17 18 19
‘(2) All penalties and costs ordered to be paid in respect of offences are to be paid to the Board.	20 21
‘(3) All fees payable to the Board under this Act, and all penalties and costs ordered by the Board to be paid to the Board under this Act, constitute debts due to the Board and may be recovered in a court having jurisdiction for the recovery of debts up to the amount concerned.	22 23 24 25
‘Evidentiary provisions	26
‘69. In a proceeding for the purposes of this Act—	27
(a) a certificate signed by the registrar that a person named in the certificate—	28 29

(i) was or was not at a time or for a period specified in the certificate registered under the Act; or	1 2
(ii) was removed from a specified register on a date specified in the certificate;	3 4
is evidence of the fact stated in the certificate; and	5
(b) a document certified by the registrar to be a true copy of, or extract from, a register, book, certificate, notice, list, declaration or document in the Board's custody is evidence of the matter stated in the document; and	6 7 8 9
(c) it is not necessary to prove—	10
(i) the authority of the person who instituted the proceeding; or	11
(ii) the appointment of a member of the Board.	12
‘Judicial notice	13
‘70. The signatures of the chairperson and registrar are to be judicially noticed.	14 15
‘Regulations	16
‘71.(1) The Governor in Council may make regulations for the purposes of this Act.	17 18
‘(2) A regulation may impose a penalty by way of fine of not more than 4 penalty units for a contravention of a regulation.’.	19 20
	21