

Royal Commission of Inquiry into Building Failure Caused by the Canterbury Earthquakes

Registration of Professional Engineers

Prior to 2002, the regulation of Engineers was through the Engineers Registration Act 1924. While the original policy intention of this legislation was to provide a control on the use of public funds by providing a list of engineers who local authority needed to 'employ' for capital projects over a certain threshold.

It was also used by central government and engineering consultancies as a "competence" mark and it was rare for professional engineers involved in structural engineering to not be registered.

The Act was governed by the Engineers Registration Board, which had government and profession nominees. It is understood that competence assessment methodologies varied over the years since 1924.

Prior to the Act being repealed in 2002, the assessment of engineers was done by IPENZ.

In 2002 the Engineers Registration Act 1924 was repealed by the Chartered Professional Engineers Act of New Zealand 2002.

A copy of the Act and Regulations which includes competency standards is attached.

IPENZ is the Registration Authority under the Act.

**Reprint
as at 25 October 2006**



**Chartered Professional Engineers
of New Zealand Act 2002**

Public Act 2002 No 17
Date of assent 31 May 2002
Commencement see section 2

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the Department of Building and Housing .

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New Zealand Act 2002**

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Miscellaneous

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1 Title

This Act is the Chartered Professional Engineers of New Zealand Act 2002.

Part 1 Preliminary provisions

2 Commencement

Except as provided in sections 73 to 77, this Act comes into force on 1 July 2002.

3 Purpose of Act

The purpose of this Act is to reform the law relating to the registration of engineers and to establish the title of chartered professional engineer as a mark of quality; and, to those ends, this Act—

- (a) establishes a registration system for chartered professional engineers, under which persons who wish to be chartered professional engineers must meet minimum standards to be, and continue to be, registered:
- (b) requires a code of ethics and a complaints and disciplinary process to apply to chartered professional engineers:

- (c) requires a professional body to carry out the functions relating to the registration system, the code of ethics, and the complaints and disciplinary process, and establishes a statutory body to oversee aspects of those functions:
- (d) repeals the Engineers Registration Act 1924.

4 **Interpretation**

In this Act, unless the context otherwise requires,—

board means the members of the Council who number not less than the required quorum acting together as a board

chartered professional engineer has the meaning set out in section 6

commencement date has the meaning set out in section 66

Council means the Chartered Professional Engineers Council established by section 44

CPEng standards has the meaning set out in section 40

decision includes an order

decision authority means—

- (a) the Registration Authority:
- (b) the Council

disciplinary matter means an inquiry into, or complaint about, the conduct of a chartered professional engineer or a decision on that inquiry or complaint

Engineers Registration Board means the board constituted under section 3 of the Engineers Registration Act 1924

establishment period has the meaning set out in section 66

financial year, in relation to the Council, has the meaning set out in section 61

member means a member of the Council

Minister means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

registered means registered under section 8

Registration Authority means the Institution of Professional Engineers of New Zealand Incorporated

rules means the rules referred to in section 40 and (in the case of a rule containing a CPEng standard) approved by the Council under section 41

transitional period has the meaning set out in section 66.

5 Act to bind the Crown

This Act binds the Crown.

Part 2

Chartered professional engineers

Title of chartered professional engineer and its protection

6 Title of chartered professional engineer

A person is a **chartered professional engineer** if he or she—

- (a) is registered; and
- (b) holds a current registration certificate.

7 Protection of title of chartered professional engineer

(1) No person, other than a chartered professional engineer, may use in connection with his or her business, trade, employment, calling, or profession—

- (a) the title “chartered professional engineer”; or
- (b) any words, initials, or abbreviations of that title that are intended to cause, or that may reasonably cause, any person to believe that the person using those words, initials, or abbreviations is a chartered professional engineer.

(2) Despite subsection (1), a person may use that title (or words, initials, or abbreviations of that title) in representing qualifications or titles awarded by overseas agencies in accordance with the rules.

(3) A person who contravenes subsection (1) commits an offence, and is liable on summary conviction to a fine not exceeding \$5,000.

*Registration of chartered professional engineers***8 Requirements for initial registration as chartered professional engineer**

The Registration Authority must register a person if he or she—

- (a) applies to the Registration Authority, and pays the applicable charge, in accordance with the rules; and
- (b) satisfies the Registration Authority that he or she meets the minimum standards for registration contained in the rules; and
- (c) agrees to be bound by the rules as amended from time to time.

9 Issue and term of registration certificate

- (1) The Registration Authority must issue a registration certificate to a person on his or her registration.
- (2) The Registration Authority must issue each subsequent registration certificate to a person if he or she—
 - (a) is currently registered; and
 - (b) applies to the Registration Authority, and pays the applicable charge, in accordance with the rules.
- (3) A registration certificate is in force for the year or years (or part of them) for which it is issued.
- (4) However, a person's registration certificate is immediately cancelled if the person's registration is removed.
- (5) If a person does not hold a current registration certificate for more than 12 months, his or her registration may be removed, unless—
 - (a) in that period the person has applied for a certificate, and paid the applicable charge, in accordance with the rules; or
 - (b) his or her registration has been placed in abeyance because he or she required it to be.

10 Registration charges

- (1) The Registration Authority may decline to register a person or to issue a registration certificate if the applicable charge is not paid.

- (2) If a charge payable by a person for registration or a registration certificate remains unpaid for 90 days or more, the Registration Authority may place the person's registration in abeyance until the person pays the charge and, if he or she does not do so within 12 months, remove his or her registration.

11 Chartered professional engineer to meet minimum standards for continued registration

- (1) The Registration Authority must assess at the frequency required by the rules, and may assess at any other time, whether or not a registered person meets the minimum standards for continued registration contained in the rules.
- (2) If the Registration Authority determines that the person does not meet those minimum standards, it must—
- (a) remove the person's registration; or
 - (b) suspend the person's registration until the person satisfies the Authority that he or she meets those minimum standards and, if he or she does not do so within 12 months, remove his or her registration.

12 Removal from register

- (1) The Registration Authority may remove a person's registration only—
- (a) if the person dies; or
 - (b) if the person, by written notice, requires the Registration Authority to remove his or her registration; or
 - (c) in accordance with section 9 (issue and term of registration certificate); or
 - (d) in accordance with section 10 (registration charges); or
 - (e) in accordance with section 11 (chartered professional engineer to meet minimum standards for continued registration); or
 - (f) in accordance with section 22 (disciplinary penalties); or
 - (g) in accordance with section 23 (non-payment of fines or costs).
- (2) The Registration Authority must comply with the applicable procedures under section 25 before removing a registration.

13 Suspension from register

- (1) The Registration Authority may suspend a person's registration only in accordance with—
 - (a) section 11 (chartered professional engineer to meet minimum standards for continued registration); or
 - (b) section 22 (disciplinary penalties); or
 - (c) section 23 (non-payment of fines or costs).
- (2) The Registration Authority must comply with the applicable procedures under section 25 before suspending a registration.

14 Placing registration in abeyance

- (1) The Registration Authority may place a person's registration in abeyance only—
 - (a) if the person, by written notice, requires it (and then for the period required, subject to the rules); or
 - (b) in accordance with section 10 (registration charges).
- (2) The Registration Authority must comply with the applicable procedures under section 25 before placing a registration in abeyance.

15 Effect of suspension or abeyance of registration

- (1) A person is not a chartered professional engineer for the purposes of this Act, and accordingly must not use that title, for the period for which his or her registration is suspended or placed in abeyance.
- (2) At the end of the period of suspension or abeyance, the person's registration is immediately revived (unless it has been removed) and, if the person's registration certificate has expired, the Registration Authority may issue a registration certificate to him or her under section 9(2).

*Register of chartered professional engineers***16 Registration Authority to keep register of chartered professional engineers**

- (1) The Registration Authority must keep and maintain a register of chartered professional engineers in accordance with this Act and the rules.
- (2) The purpose of the register is—

- (a) to enable members of the public to—
 - (i) know who is a chartered professional engineer and what is the status and relevant history of the person's registration; and
 - (ii) select a suitable engineer from a list of chartered professional engineers; and
 - (iii) (if the chartered professional engineer has consented) know how to contact a chartered professional engineer; and
 - (iv) know which chartered professional engineers have been disciplined within the last 3 years; and
- (b) to facilitate the administrative, disciplinary, and other functions of the Registration Authority under this Act.

17 Form of register

The register may be kept in the manner that the Registration Authority thinks fit, including, either wholly or partly, by means of a device or facility that—

- (a) records or shares information electronically or by other means; and
- (b) permits the information recorded to be readily inspected or reproduced in a usable form; and
- (c) permits the information recorded to be accessed by electronic means, including (without limitation) by means of remote log-on access.

18 Matters to be shown in register

- (1) The register must contain the following information for each registered person:
 - (a) the name of the person; and
 - (b) if the person consents, address details (including the electronic address if applicable) of the person; and
 - (c) the following matters on the status and history of the person's registration:
 - (i) the date on which the person was registered; and
 - (ii) the period for which the most recent registration certificate was issued; and
 - (iii) any order made on a disciplinary matter in the last 3 years; and

- (iv) any other current suspension or placing of registration in abeyance, the ground under this Act for the suspension or abeyance (eg, whether for non-payment of registration charges, required by the registered person, or on another ground), its period, and any conditions for its termination; and
 - (d) any other information that the Registration Authority considers necessary or desirable for the purpose of the register.
- (2) The Registration Authority may publicly notify in the register an order made on a disciplinary matter, a suspension, or an abeyance (other than an abeyance required by the registered person) only if the person has not exercised his or her rights of appeal under sections 35 and 38 within the applicable time limit or has unsuccessfully exhausted his or her rights of appeal under those sections.

19 Register to be public

The Registration Authority must—

- (a) keep the register open for public inspection, without fee, during reasonable hours at the head office of the Registration Authority and at any other place that the Registration Authority determines to be necessary or appropriate; and
- (b) supply to a person copies of all or part of the register on request and on payment of a reasonable charge for the production of the copy.

Disciplining of chartered professional engineers

20 Complaints on chartered professional engineers

- (1) Any person may complain to the Registration Authority about the conduct of a chartered professional engineer in accordance with the rules.
- (2) The Registration Authority must, as soon as practicable after receiving a complaint, investigate the complaint and determine whether or not to proceed with it.

- (2A) If the Registration Authority determines not to proceed with a complaint because the matter relates to a building practitioner who is licensed under the Building Act 2004, the Registration Authority must refer the complaint to the Registrar of Licensed Building Practitioners appointed under that Act.
- (3) A complaint or inquiry, and any decision on the complaint or inquiry, may relate to a person who is no longer a chartered professional engineer, but who was a chartered professional engineer at the time of the relevant conduct.

Section 20(2A): inserted, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

21 Grounds for discipline of chartered professional engineers

- (1) The Registration Authority may (in relation to a matter raised by a complaint or by its own inquiries) make an order referred to in section 22 if it is satisfied that a chartered professional engineer—
- (a) has been convicted, whether before or after he or she became registered, by any court in New Zealand or elsewhere of any offence punishable by imprisonment for a term of 6 months or more if, in the Authority's opinion, the commission of the offence reflects adversely on the person's fitness to practise engineering; or
 - (b) has breached the code of ethics contained in the rules; or
 - (c) has performed engineering services in a negligent or incompetent manner; or
 - (d) has, for the purpose of obtaining registration or a registration certificate (either for himself or herself or for any other person),—
 - (i) either orally or in writing, made any declaration or representation knowing it to be false or misleading in a material particular; or
 - (ii) produced to the Authority or made use of any document knowing it to contain a declaration or representation referred to in subparagraph (i); or
 - (iii) produced to the Authority or made use of any document knowing that it was not genuine.

- (2) The Registration Authority may make the order whether or not the person is still a chartered professional engineer.
- (3) The Registration Authority must comply with the applicable procedures under section 25 before making an order.

22 Disciplinary penalties

- (1) In any case to which section 21 applies, the Registration Authority may order that—
 - (a) the person's registration be removed, and that the person may not apply for re-registration before the expiry of a specified period;
 - (b) the person's registration be suspended for a period of no more than 12 months or until the person meets specified conditions relating to the registration (but, in any case, not for a period of more than 12 months);
 - (c) the person be censured;
 - (d) the person must pay a fine not exceeding \$5,000.
- (2) The Registration Authority may make only 1 type of order in subsection (1) in relation to a case, except that it may impose a fine under subsection (1)(d) in addition to an order under subsection (1)(b) or subsection (1)(c).
- (3) No fine may be imposed under subsection (1)(d) in relation to an act or omission that constitutes an offence for which the person has been convicted by a court.
- (4) In any case to which section 21 applies, the Registration Authority may order that the person must pay costs and expenses of, and incidental to, the inquiry by the Authority.
- (5) In addition to notifying the order in the register, the Registration Authority—
 - (a) must notify the Registrar of Licensed Building Practitioners appointed under the Building Act 2004 of the order and the reasons for it; and
 - (b) may publicly notify the order in any other way that it thinks fit.
- (6) Subsection (5) applies only if—
 - (a) the person has not exercised his or her rights of appeal under sections 35 and 38 within the applicable time limit; or

- (b) has unsuccessfully exhausted his or her rights of appeal under those sections.

Section 22(5): substituted, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 22(6): added, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

23 Non-payment of fines or costs

If money payable by a person under section 22(1)(d) or section 22(4) remains unpaid for 60 days or more, the Registration Authority may—

- (a) remove the person's registration; or
(b) suspend the person's registration until the person pays the fine and, if he or she does not do so within 12 months, remove his or her registration.

*Decision-making functions and general
procedure of decision authorities under this
Part*

24 Decision-making functions of Registration Authority and Council under this Part

- (1) Under this Part,—
- (a) the Registration Authority makes decisions relating to the registration of chartered professional engineers, the register, the complaints and disciplinary process for chartered professional engineers, and related matters;
- (b) the Council hears appeals on those decisions.
- (2) Subsection (1) is a guide only to the general scheme and effect of the different decision-making functions of the Registration Authority and Council under this Part.

25 Specified procedure for making decisions

In the performance and exercise of its decision-making functions and powers under this Part, a decision authority must—

- (a) give written notice of, and reasons for, its decision to any person to whom the decision relates; and
(b) observe the rules of natural justice; and
(c) in the case of the Registration Authority, comply with any applicable procedures under the rules; and

- (d) in the case of the Council, comply with any regulations made under section 65.

26 Other procedure for making decisions

Except as otherwise provided in this Act, a decision authority may regulate its own procedure for making decisions under this Part.

Powers and procedure of decision authorities on disciplinary matters

27 Registration Authority and Council may hear evidence for disciplinary matters

- (1) In relation to a disciplinary matter, a decision authority may—
 - (a) receive evidence on oath (and for that purpose a member of the governing body of the decision authority or an employee of the decision authority may administer an oath);
 - (b) permit a person appearing as a witness before it to give evidence by tendering a written statement and verifying that statement by oath, statutory declaration, or otherwise.
- (2) A hearing before a decision authority on a disciplinary matter is a judicial proceeding for the purposes of sections 108 and 109 of the Crimes Act 1961.

28 District Court may authorise Registration Authority or Council to summon witnesses on disciplinary matters

- (1) A District Court Judge may, on the application of a decision authority or the person to whom the proceedings relate, give a certificate authorising the decision authority to issue a summons under section 29.
- (2) A District Court Judge must not give a certificate under subsection (1) unless satisfied that—
 - (a) the evidence of the witness is or may be material to the hearing of a disciplinary matter by the decision authority; and
 - (b) it is necessary or desirable that the summons be issued to compel the attendance of the witness at the hearing.

29 Issuing of summons by Registration Authority or Council

- (1) A decision authority must, on production of a certificate referred to in section 28, issue a summons to a person requiring that person to attend a hearing before the decision authority and to do all or any of the following matters:
- (a) give evidence:
 - (b) give evidence under oath:
 - (c) produce documents, things, or information, or any specified documents, things, or information, in the possession or control of that person that are relevant to the hearing.
- (2) The summons must be in writing, be signed by a member of the governing body of the decision authority, and state—
- (a) the date and time when, and the place where, the person must attend; and
 - (b) the documents, things, or information that the person is required to bring and produce to the decision authority; and
 - (c) the entitlement to be tendered or paid a sum in respect of witnesses' fees, allowances, and expenses; and
 - (d) the penalty for failing to attend.
- (3) A decision authority may require that any documents, things, or information produced under this section be verified by oath, statutory declaration, or otherwise.

30 Serving of summons

- (1) A summons may be served—
- (a) by delivering it personally to the person summoned; or
 - (b) by posting it to the person summoned at that person's usual place of residence.
- (2) A summons must,—
- (a) if it is to be served under subsection (1)(a), be served at least 48 hours before the attendance of the witness is required:
 - (b) if it is to be served under subsection (1)(b), be served at least 10 days before the attendance of the witness is required.

- (3) A summons that is posted is treated as having been served when it would have been delivered in the ordinary course of post.

31 Witnesses' fees, allowances, and expenses

- (1) A witness appearing before a decision authority under a summons is entitled to be paid witnesses' fees, allowances, and expenses in accordance with the scales prescribed for the time being by regulations under the Summary Proceedings Act 1957.
- (2) The person requiring attendance of the witness must pay or tender to the witness the fees, allowances, and expenses at the time the summons is served or at some other reasonable time before the hearing.

32 Failure to comply with summons

- (1) A person summoned under section 29 commits an offence if he or she, without sufficient cause,—
- (a) fails to attend in accordance with the summons; or
 - (b) does not give evidence when required to do so; or
 - (c) does not give evidence under oath when required to do so; or
 - (d) does not answer any question that is lawfully asked by a decision authority; or
 - (e) does not provide any documents, things, or information that the summons requires the person to provide.
- (2) A person who commits an offence against this section is liable on summary conviction to a fine not exceeding \$2,000.
- (3) A person must not be convicted of an offence under this section if witnesses' fees, allowances, and expenses to which the person is entitled under section 31 have not been paid or tendered to him or her.

33 Protection for members of decision authorities and others for disciplinary matters

- (1) Neither a decision authority nor any committee, member, or employee of a decision authority is liable for any act or omission done, in good faith, in the pursuance or intended pur-

suance of their functions or duties or exercise of their powers under this Act or the rules in relation to disciplinary matters.

- (2) Every person who does the following things has the same privileges as witnesses have in a court:
 - (a) provides documents, things, or information to a decision authority in relation to a disciplinary matter; or
 - (b) gives evidence or answers questions at a hearing of a decision authority in relation to a disciplinary matter.
- (3) Every counsel appearing before a decision authority in relation to a disciplinary matter has the same privileges and immunities as counsel in a court.

34 Enforcement of orders

If a decision authority, acting in accordance with this Act and the rules in relation to a disciplinary matter, makes an order or otherwise exercises any power in respect of a person who is or was a chartered professional engineer, that order or other exercise of any power has effect whether or not that person remains a chartered professional engineer.

Appeal of decisions

35 Right of appeal

- (1) The person to whom the decision relates or, if it is a disciplinary matter, the complainant may appeal to the Council against a decision of the Registration Authority under this Part.
- (2) The Registration Authority, the person to whom the decision relates, or, if it is a disciplinary matter, the complainant may appeal to a District Court against a decision of the Council under this Part.
- (3) The appeal of a decision must be made by written notice to the Council or District Court (as the case may be) within—
 - (a) 28 days after the person receives notice of the decision from the decision authority; or
 - (b) any further time that the Council or District Court (as the case may be) allows on application made to it before the expiry of the 28-day period.

36 Decisions to have effect until appeal

Subject to the order of the Council or District Court (as the case may be), every decision of the decision authority against which an appeal is lodged continues in effect according to its terms until the determination of the appeal.

37 Hearing and determination of appeal

- (1) Every appeal under section 35 must be heard as soon as practicable after the appeal is lodged.
- (2) An appeal to the Council is a rehearing and must be conducted in accordance with any regulations made under section 65.
- (3) Unless the Council otherwise directs, on the rehearing, the record of the evidence adduced at the hearing before the Registration Authority must be placed before the Council, and it is not permissible to recall witnesses who gave evidence before the Registration Authority or to call other witnesses.
- (4) An appeal to a District Court is a rehearing and must be conducted in accordance with the rules under section 122 of the District Courts Act 1947.
- (5) The Council or District Court, as the case may be, may—
 - (a) confirm, vary, or reverse the decision, or part of decision, to which the appeal relates:
 - (b) refer the matter back to the decision authority for it to reconsider, either generally or in relation to specific matters, the whole or any part of the decision (together with any direction on that whole or part that the Council or District Court, as the case may be, thinks fit):
 - (c) make any decision that could have been made by the decision authority:
 - (d) make any order as to the payment of the costs of the appeal that it thinks fit.
- (6) Nothing in this Part gives the Council or District Court the power to review any part of the decision other than the part to which the appeal relates.
- (7) In reconsidering a decision referred back to it with a direction under this section, the decision authority must take account of the reasons for the direction and give effect to the direction.

38 Appeal to High Court on questions of law

- (1) If, in respect of any appeal to a District Court, a party to the appeal considers that the decision of the District Court Judge is wrong in law, the party may appeal to the High Court by way of case stated for the opinion of that court on the question of law only.
- (2) Subject to subsection (3), every appeal under this section must be heard and determined by the High Court in accordance with rules of court.
- (3) The provisions of Part 4 of the Summary Proceedings Act 1957 (including the other provisions of that Act that are applied in that Part), so far as they relate to appeals by way of case stated on questions of law only, apply, so far as they are applicable and with all necessary modifications, to every appeal under this section.

Part 3**Registration Authority and Chartered
Professional Engineers Council***Registration Authority***39 Functions of Registration Authority**

The functions of the Registration Authority under this Act are to—

- (a) make, and always have, rules relating to chartered professional engineers that are prepared and approved in accordance with this Part:
- (b) register persons, issue registration certificates, assess continued registration, and carry out the other functions relating to registration in accordance with Part 2:
- (c) keep and maintain the register and carry out the other functions relating to the register in accordance with Part 2:
- (d) receive, investigate, and hear complaints about, inquire into the conduct of, and discipline, chartered professional engineers in accordance with Part 2.

- 40 Rules relating to chartered professional engineers**
- (1) The Registration Authority must make, and always have, rules containing the following minimum standards (**CPEng standards**) approved by the Council under section 41:
- (a) minimum standards of competence (including standards relating to knowledge and skills) in professional engineering that must be met for each class of registration; and
 - (b) minimum standards for demonstrating current competence in professional engineering that must be met for continued registration in each class, and for the frequency at which assessments of current competence must be carried out; and
 - (c) a code of minimum standards of ethical conduct for chartered professional engineers.
- (2) The Registration Authority must also make, and always have, rules that govern all of the following matters:
- (a) *Title of chartered professional engineer*
the form of words, initials, and abbreviations that may be used to represent a person as a chartered professional engineer (without limiting any others that may be used consistently with this Act):
 - (b) the form of words, initials, and abbreviations that must be used if the title “chartered professional engineer” (or words, initials, or abbreviations of that title to which section 7(1)(b) applies) is used in representing qualifications or titles awarded by overseas agencies that are similar to New Zealand professional engineering qualifications or titles:
 - (ba) *Classes of registration of chartered professional engineers*
classes of registration of chartered professional engineers under this Act:
 - (c) *Registration of chartered professional engineers*
the information that must be provided by applicants for registration and registration certificates, and the way in which this information must be evaluated and decisions on the information must be made and implemented:

- (d) the period for which registration certificates are to be issued:
- (e) the information that must be provided by registered persons to demonstrate their current competence, and the way in which this information must be evaluated and decisions on the information must be made and implemented:
- (f) the way in which a proposed removal or suspension of registration (that does not relate to a disciplinary matter) or the placing of registration into abeyance is to be considered, decided on, and implemented, and any minimum and maximum periods for abeyances:
- (g) any additional matters that may be recorded on the register and the amendment of the register:
- (h) the charges payable in relation to registration and the issue of a registration certificate, which charges must be reasonable and for the purposes only of recovering the costs of the performance of the functions of the Registration Authority and the Council under this Act:
Disciplining of chartered professional engineers
- (i) the information that must be provided by complainants, and the way in which this information must be evaluated and decisions on whether or not to proceed with the complaint must be made and implemented:
- (j) an investigating committee to investigate complaints about, and inquire into the conduct of, chartered professional engineers and former chartered professional engineers, and the powers and procedures of that committee under this Act:
- (k) a disciplinary committee to hear complaints and matters referred to it by the investigating committee, and the powers and procedures of that committee under this Act:
- (l) the way in which a disciplinary matter must be considered and decided on, and the way in which decisions on that matter must be implemented:
Rule-making procedures
- (m) the making, amendment, and revocation of rules, including the requirements for consultation with persons

affected by the rules in the preparation of those proposed rules, amendments, or revocations.

- (3) In addition, the Registration Authority may also make any other rules that—
- (a) are necessary or desirable to govern the practice and procedure of the Registration Authority's functions under this Act; or
 - (b) the Registration Authority considers to be desirable in the interests of natural justice.
- (4) The rules must be consistent with this Act.

Section 40(1)(a): amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 40(1)(b): amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 40(2)(ba) heading: inserted, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 40(2)(ba): inserted, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

41 Particular requirements for preparation and approval of rules containing CPEng standards

- (1) In preparing a rule containing a CPEng standard, the Registration Authority must—
- (a) ensure that the proposed rule is consistent with the purposes of this Act; and
 - (b) consult with engineers and any persons that it reasonably considers to be representative of other persons or classes of persons affected by the proposed rule; and
 - (c) take into account international best practice and New Zealand's international obligations.
- (2) The Registration Authority must not make a rule containing a CPEng standard unless the proposed rule is first approved by the Council under this section.
- (3) The Council must—
- (a) determine whether or not it approves a proposed rule as soon as practicable after the Registration Authority provides it to the Council; and

- (b) approve the proposed rule if it has reasonable grounds to be satisfied that the Registration Authority has complied with subsection (1).
- (4) The requirements of this section that apply to making a rule containing a CPEng standard apply also to any amendment or revocation of that rule.

42 Application of Regulations (Disallowance) Act 1989 and Acts and Regulations Publication Act 1989 to rules

The rules are regulations for the purposes of the Regulations (Disallowance) Act 1989 and the Acts and Regulations Publication Act 1989.

43 Registration Authority may delegate functions

- (1) The Registration Authority may delegate any of its functions or powers under the Act or the rules to any person or persons.
- (2) The delegate—
 - (a) may, unless the delegation provides otherwise, perform the function or exercise the power in the same manner, subject to the same restrictions, and with the same effect as if the delegate were the Registration Authority; and
 - (b) may delegate the function or power if the delegation permits.
- (3) A delegate who purports to perform a function or exercise a power under a delegation is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of that delegation.
- (4) A delegation under this section—
 - (a) may be revoked at will by the Registration Authority; and
 - (b) does not prevent the Registration Authority from performing the function or exercising the power.

Chartered Professional Engineers Council

44 Establishment of Chartered Professional Engineers Council

An organisation called the Chartered Professional Engineers Council is established.

45 Functions of Council

The functions of the Council are to—

- (a) review and, if the proposed rules meet the applicable requirements, approve proposed rules containing CPEng standards in accordance with section 41;
- (b) hear appeals from decisions of the Registration Authority in accordance with Part 2;
- (c) review and report to the Minister on the performance and exercise of the Registration Authority's and the Council's respective functions and powers under this Act in accordance with this Part.

46 Body corporate status and powers

- (1) The Council is a body corporate with perpetual succession.
- (2) Subject to this Act and any other enactment, the Council has—
 - (a) full capacity to carry on or undertake any activity, do any act, or enter into any transaction; and
 - (b) for the purposes of paragraph (a), full rights, powers, and privileges.

47 Powers to be exercised for purpose of functions

The Council must exercise its powers only for the purpose of performing its functions.

48 Members and their role

- (1) All decisions relating to the operation of the Council must be made by or under the authority of the board of the Council.
- (2) The board of the Council has all the powers necessary for carrying out its role under subsection (1).

49 Composition of board

The Council's board must have at least 6, but no more than 8, members appointed by the Governor-General on the recommendation of the Minister.

50 Criteria for appointment

- (1) The Minister must recommend for appointment as members of the Council—

- (a) 3 persons nominated by the Institution of Professional Engineers of New Zealand Incorporated; and
 - (b) 1 person nominated by the Association of Consulting Engineers of New Zealand; and
 - (c) 1 person nominated by the Minister whom the Minister considers to be representative of consumers; and
 - (d) 1 to 3 other persons nominated by the Minister.
- (2) The Minister must—
- (a) recommend persons under subsection (1)(a), (b), and (d) who are knowledgeable about professional engineering; and
 - (b) in recommending persons under subsection (1)(a), (b), and (d), have regard to the aim that the members collectively represent the range of engineering practices and disciplines; and
 - (c) not recommend a person who is a member of the governing body of the Registration Authority or an employee of the Registration Authority.

51 Further provisions as to Council and its board in Schedule 1

Schedule 1 applies to the Council and its board.

Reporting by Registration Authority and Council

52 Registration Authority to provide annual performance report to Council

- (1) The Registration Authority must, no later than 31 March each year, give to the Council a report on the operations of the Registration Authority and the register during the 12 months ending on the preceding 31 December.
- (2) The report must include the following information:
 - (a) the number of chartered professional engineers at the end of the 12-month period; and
 - (b) the number of persons whom the Registration Authority registered and the number of persons whom the Registration Authority declined to register during the 12-month period; and

- (c) the number of persons whose registration was removed, suspended, or placed in abeyance during the 12-month period; and
- (d) the number of persons against whom the Registration Authority made a disciplinary order during the 12-month period; and
- (e) the amount of the charge or charges payable in relation to registration or the issue of a registration certificate during the 12-month period; and
- (f) any other information that the Council reasonably requires.

53 Council to provide annual performance reports on Registration Authority to Minister

- (1) The Council must, as soon as practicable after a report is provided to it under section 52, give to the Minister that report and its own report on the operations of the Registration Authority during the 12-month period of the Authority's report.
- (2) The Council's report must include an assessment of the Registration Authority's performance and exercise of its functions and powers under this Act during that 12-month period.

54 Obligation for Council to prepare own annual report

- (1) The Council must prepare an annual report on its operations for each financial year as soon as practicable after the end of that financial year.
- (2) The report must contain the following information and reports in respect of the financial year to which it relates:
 - (a) a report on its operations, including the information that is necessary to enable an informed assessment to be made of the Council's performance and exercise of its functions and powers under this Act during the financial year; and
 - (b) annual financial statements and a statement of responsibility for them prepared in accordance with section 55; and
 - (c) the auditor's report in accordance with section 56.
- (3) The annual report must be dated and signed on behalf of the Council's board by 2 members.

55 Annual financial statements and statement of responsibility

- (1) The Council must prepare its annual financial statements with respect to the affairs of the Council for each financial year in accordance with generally accepted accounting practice (within the meaning of section 3 of the Financial Reporting Act 1993, applied as if the Council were a reporting entity).
- (2) The annual financial statements must contain—
 - (a) a statement of the financial position at the balance date; and
 - (b) a statement of financial performance for the financial year; and
 - (c) a statement of cash flows reflecting cash flows for the financial year; and
 - (d) a statement of the commitments as at the balance date; and
 - (e) a statement of the contingent liabilities as at the balance date; and
 - (f) a statement of accounting policies; and
 - (g) any other statements that are necessary to fairly reflect its financial operations for the financial year and its financial position at the end of the financial year; and
 - (h) in relation to each statement required by paragraphs (a) to (c) and, if appropriate, paragraph (g), budgeted figures for the financial year; and
 - (i) in relation to each statement required by this subsection (other than by paragraph (f)), comparative actual figures for the previous financial year.
- (3) The statement of responsibility for the financial statements must—
 - (a) contain a statement of the board's responsibility for the preparation of the annual financial statements and the judgements in them; and
 - (b) contain a statement of the board's responsibility for establishing and maintaining a system of internal control that is designed to provide reasonable assurance as to the integrity and reliability of financial reporting.

56 Audit

- (1) The Council must, within 90 days after the end of each financial year, submit the report on operations, the annual financial statements, and the statement of responsibility required under section 54(2)(a) and (b) to the Auditor-General for audit.
- (2) The Auditor-General must audit those documents, and provide an audit report on them to the Council, within 30 days after receiving them.

57 Obligation for Council to provide own annual report to Minister

The Council must provide the annual report to the Minister as soon as practicable after receiving the audit report.

58 Council to publish reports

- (1) As soon as practicable after giving a report to the Minister under section 53 or section 57, the Council must—
 - (a) publicly notify that the report has been given to the Minister and where copies of the report may be inspected and purchased; and
 - (b) make copies of the report available to the public at the place set out in the public notification, on request, for inspection free of charge and for purchase at a reasonable cost of providing the copy.
- (2) In this section, **publicly notify** means notify to the public in writing by at least 1 electronic and 1 non-electronic medium that is widely available to the public in at least Auckland, Hamilton, Wellington, Christchurch, and Dunedin.

59 Annual reports to be presented to House of Representatives

The Minister must present a copy of each report given to him or her under sections 53 and 57 to the House of Representatives no later than 10 parliamentary working days after the date on which the Minister receives that report.

60 Power of Minister to require information relating to affairs of Council

- (1) The Council must supply to the Minister any information relating to the affairs of the Council that the Minister requests.
- (2) However, a request may be refused if—
 - (a) withholding the information is necessary to protect the privacy of any person (whether or not a natural person or a deceased natural person) and there would, under the Official Information Act 1982, be good reason for withholding the information if—
 - (i) the request had been made under section 12 of that Act; and
 - (ii) section 9(2)(a) of that Act applied to all persons, whether natural persons or not; and
 - (iii) the need to protect the privacy of any person is not outweighed by the Minister's need to have the information in order to discharge the Minister's ministerial duties; or
 - (b) the information relates to a particular matter in respect of which the Council or any person appointed or employed by the Council is required to act judicially.

61 Financial year of Council

The financial year of the Council ends on 30 June or on any other date determined by the Minister.

**Part 4
Miscellaneous provisions***Miscellaneous***62 Certificate of Registration Authority or Council to be conclusive evidence**

- (1) A certificate as to any of the following matters given in writing by any person authorised by the Registration Authority in writing to provide such certificates is conclusive evidence of that matter, in the absence of proof to the contrary:
 - (a) as to whether or not a person is registered at any time;
 - (b) as to whether or not a person holds a current registration certificate at any time;

- (c) as to any entry in the register:
 - (d) as to any act or proceeding of the Registration Authority or of any committee of the Registration Authority.
- (2) A certificate given in writing by a member of the Council as to any act or proceeding of the Council or of any committee of the Council is conclusive evidence of that matter, in the absence of proof to the contrary.

63 Payment and application of charges, fines, and other money

- (1) All charges, fines, and other money payable by a person under this Act (other than the levy payable under section 64)—
- (a) are payable to the Registration Authority:
 - (b) are recoverable as a debt due to the Registration Authority from that person, whether or not he or she remains a chartered professional engineer:
 - (c) may be applied by the Registration Authority as it considers appropriate in the performance of its functions and duties and the exercise of its powers under this Act.
- (2) For the purposes of this section, **fine** does not include a fine imposed in respect of the commission of an offence against a provision of this Act.

64 Annual levy to be paid by Registration Authority to Council

- (1) The Registration Authority must pay to the Council, in each financial year to which the regulations apply, a levy of the amount stated in, or calculated in accordance with, regulations made under section 65 for the performance of the Council's functions under this Act.
- (2) The Minister must, before recommending the making of regulations,—
- (a) consult with the Registration Authority and the Council; and
 - (b) calculate the amount of levy to be paid so as to ensure that the estimated costs of performing those functions may be met out of the levy.

- (3) The regulations may specify the financial year or part financial year to which the levy applies, and the regulations may apply the levy to that financial year or part financial year and each subsequent financial year until revoked or replaced.
- (4) The amount of any unpaid levy is recoverable in any court of competent jurisdiction as a debt due to the Council.

65 Regulations

The Governor-General may, by Order in Council made on the recommendation of the Minister given after consultation with the Council, make regulations for all or any of the following purposes:

- (a) providing for the levy under section 64 and its payment:
- (b) prescribing rules for the conduct of appeals under this Act by the Council:
- (c) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

Transitional and consequential provisions—Outline

66 Outline of transitional and consequential provisions

- (1) The general scheme and effect of the transitional and consequential provisions is as follows:
 - (a) the Council is established on 1 July 2002 (the **commencement date**):
 - (b) during the period on and from the commencement date until 31 December 2002 (the **establishment period**), the register of chartered professional engineers must be established and, accordingly, the rules must be made and persons may apply for registration, but not be finally registered, as chartered professional engineers:
 - (c) during the establishment period, registrations of registered engineers under the Engineers Registration Act 1924 continue, but at the end of that period they must cease and registrations of chartered professional engineers may start:
 - (d) for the period on and from the commencement date until 31 December 2003 (the **transitional period**), the regis-

ter of registered engineers and the Engineers Registration Board continue to exist:

- (e) at the end of the transitional period, the title of registered engineer ceases, and other consequential amendments and repeals are made.
- (2) This section is a guide only to the general scheme and effect of these provisions.

*Transitional and consequential provisions
relating to establishment of Council*

67 Members of Engineers Registration Board to be members of Council on commencement date

- (1) The persons holding office, immediately before the commencement date, as members of the Engineers Registration Board are to be treated as if they were also appointed on the commencement date as members of the Council.
- (2) A member holds office under subsection (1) until—
 - (a) a member is appointed under Schedule 1 in place of the person; or
 - (b) the person resigns as a member under Schedule 1; or
 - (c) the person is removed from office under Schedule 1; or
 - (d) in any other case, the date on which the Engineers Registration Board is dissolved under section 74.

68 Engineers Registration Board to pay start-up amount to Council

The Engineers Registration Board must pay to the Council an amount of \$65,000 as soon as practicable after the commencement date.

69 Related amendments to other Acts

Amendment(s) incorporated in the Act(s).

*Transitional and consequential provisions
relating to establishment of register of chartered
professional engineers*

**70 Rules must be made and provided to Council before
1 November 2002**

The Registration Authority must, in accordance with Part 3, make the rules referred to in section 40(2), and prepare and provide the proposed rules containing the CPEng standards to the Council for its approval under section 41, before 1 November 2002.

**71 Registration Authority not to register persons for 6-month
establishment period**

Despite the rest of this Act, the Registration Authority must not register any person under the rules or issue any registration certificate (but may take all other preliminary steps) until the end of the establishment period.

**72 Related amendment to Privacy Act 1993 at end of
establishment period**

Amendment(s) incorporated in the Act(s).

*Transitional and consequential provisions
relating to ending of title of registered engineer*

**73 Engineers Registration Board to cease new registrations
from end of establishment period**

On and from the end of the establishment period, the Engineers Registration Board must not register any person as an engineer under the Engineers Registration Act 1924.

**74 Dissolution of Engineers Registration Board at end of
transitional period**

On the end of the transitional period,—

- (a) the Engineers Registration Board is dissolved; and
- (b) all property of any nature belonging to the Engineers Registration Board is vested in the Council, subject to all liabilities, charges, obligations, or trusts affecting the property; and

- (c) all money payable to the Engineers Registration Board is payable to the Council; and
- (d) all liabilities and obligations of any nature (other than under contracts of employment), and all rights and authorities of any nature, of the Engineers Registration Board are the liabilities, obligations, rights, and authorities of the Council.

75 Repeal of Engineers Registration Act 1924 at end of transitional period

- (1) On the end of the transitional period, the Engineers Registration Act 1924 (1924 No 16) is repealed.
- (2) On the end of the transitional period, the Engineers Registration Regulations 1999 (SR 1999/129) are revoked.
- (3), (4) *Amendment(s) incorporated in the Act(s).*
- (5) Despite subsection (1), the Engineers Registration Act 1924 continues to apply in respect of any court action commenced under it before it is repealed under this section.

76 Other enactments amended at end of transitional period

On the end of the transitional period, the enactments specified in Schedule 2 are amended in the manner indicated in that schedule.

77 Prohibition on use of title of registered engineer from end of transitional period

- (1) On and from the end of the transitional period, no person may use in connection with his or her business, trade, employment, calling, or profession—
 - (a) the title “registered engineer”; or
 - (b) any written words, titles, initials, or abbreviations of words, titles, or initials that are intended to cause, or that may reasonably cause, any other person to believe that he or she is registered under the Engineers Registration Act 1924.

Reprinted as at
25 October 2006

**Chartered Professional Engineers of
New Zealand Act 2002**

Part 4 s 77

- (2) A person who contravenes subsection (1) commits an offence, and is liable on summary conviction to a fine not exceeding \$5,000.
-

Schedule 1

s 51

**Further provisions applying to Council
and its board**Appointment, term, resignation, and removal
of members**1 Method of appointment**

- (1) The Governor-General appoints a member by sending written notice to the member (with a copy to the Council).
- (2) The notice of appointment must—
 - (a) state the date on which the appointment takes effect; and
 - (b) be given only after the person to be appointed has consented in writing to being a member, certified in writing that he or she is not disqualified from being a member, and disclosed to the Minister all interests that the person would, if he or she were a member, have to disclose under clauses 13 to 16 at the time of the certificate.

2 Restrictions on persons who may be members

The following persons are disqualified from being a member:

- (a) a person who is an undischarged bankrupt;
- (b) a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under the Companies Act 1993, or the Securities Act 1978, or the Securities Markets Act 1988, or the Takeovers Act 1993;
- (c) a person who is subject to a property order made under section 10, 11, 12, 30, or 31 of the Protection of Personal and Property Rights Act 1988, or whose property is managed by a trustee corporation under section 32 of that Act;
- (d) a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more or who has been sentenced to imprisonment for any other offence, unless that person has obtained a pardon or served the sentence or otherwise suffered the penalty imposed on the person:

- (e) a person who has failed to disclose all interests under clause 1:
- (f) a person who is not a natural person.

Schedule 1 clause 2(b): substituted, on 25 October 2006, by section 25 of the Securities Amendment Act 2006 (2006 No 46).

3 Term of appointment

- (1) A member—
 - (a) holds office for 5 years or any shorter period stated in the notice of appointment; and
 - (b) may be reappointed; and
 - (c) continues in office despite the expiry of his or her term of office until—
 - (i) the member is reappointed; or
 - (ii) the member's successor is appointed; or
 - (iii) the Governor-General informs the member by written notice (with a copy to the Council) that the member is not to be reappointed and no successor is to be appointed.
- (2) This section is subject to clause 8.

4 Concurrent offices

A person appointed as a member may hold that office concurrently with any other office.

5 Validity of acts

The acts of a person as a member are valid even if—

- (a) the person's appointment was defective; or
- (b) the person is not qualified for appointment.

6 Resignation

- (1) A member may resign from office by written notice to the Minister (with a copy to the Council) signed by the member.
- (2) The resignation is effective on receipt by the Minister of the notice or at any later time specified in the notice.

7 Removal from office

- (1) The Governor-General may, on the advice of the Minister given after consultation with the Attorney-General, remove a member from office by written notice to the member (with a copy to the Council) at any time for any of the following reasons proved to the satisfaction of the Governor-General:
- (a) breach of the member's duties or the board's collective duties under this schedule; or
 - (b) failure or inability to perform, or inadequate performance of, the member's duties and responsibilities as a member; or
 - (c) misconduct by the member; or
 - (d) any other just cause.
- (2) Before giving advice to the Governor-General, the Minister must give the member a reasonable opportunity to make written submissions or be heard on the proposal to remove him or her.
- (3) The notice of removal must state the reason for the removal.
- (4) A member is not entitled to any compensation or other payment or benefit relating to his or her removal from office.

8 Members ceasing to hold office

A member ceases to hold office if he or she—

- (a) resigns in accordance with clause 6; or
- (b) is removed from office in accordance with clause 7 or any other enactment; or
- (c) becomes disqualified from being a member under clause 2; or
- (d) otherwise ceases to hold office in accordance with any enactment.

Duties of members

9 Members accountable to Minister

- (1) A member is accountable to the Minister for performing his or her duties and responsibilities as a member.
- (2) If the board breaches any of its duties under clause 11,—
- (a) each member of that board is accountable to the Minister for the breach; and

- (b) that breach justifies all or any of the members being removed from office.
- (3) The duties of members and the board under this schedule are duties owed only to the Minister (in the case of duties under clause 11) and only to the Minister and the Council (in the case of all other duties), and do not provide any ground of action for any other person.

10 Duties of members

A member, when acting as a member, must act—

- (a) in good faith; and
- (b) with reasonable care, diligence, and skill; and
- (c) with honesty and integrity; and
- (d) in accordance with any statement of expectations as to standards of good conduct for members of statutory bodies issued by 1 or more Ministers of the Crown that applies to statutory bodies (or classes of them) generally.

11 Collective duties of board

The board must—

- (a) not contravene, or cause the Council or any subsidiary of the Council to contravene, this Act; and
- (b) ensure that the Council, and endeavour to ensure that any subsidiary of the Council, acts in a manner consistent with the objectives and functions of the Council, and with the Council's current statement of intent; and
- (c) ensure that the Council, and endeavour to ensure that any subsidiary of the Council, performs its functions efficiently and effectively and in a manner consistent with the spirit of service to the public; and
- (d) ensure that the Council, and endeavour to ensure that any subsidiary of the Council, operates in a financially responsible manner and, for this purpose, endeavour to ensure that it—
 - (i) endeavours to maintain its long-term financial viability; and
 - (ii) endeavours to cover all of its annual costs from its net annual income; and

- (iii) endeavours to act as a successful going concern;
and
- (iv) prudently manages its assets and liabilities.

12 When members may rely on certain information and advice

- (1) A member, when acting as a member, may rely on reports, statements, financial data, and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:
 - (a) an employee of the Council whom the member believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
 - (b) a professional adviser or expert in relation to matters that the member believes on reasonable grounds to be within the person's professional or expert competence;
 - (c) any other member or committee of the board upon which the member did not serve in relation to matters within the member's or committee's designated authority.
- (2) A member, when acting as a member, may rely on reports, statements, financial data, and other information supplied by the Minister.
- (3) Subclauses (1) and (2) apply to a member only if the member—
 - (a) acts in good faith; and
 - (b) makes proper inquiry if the need for inquiry is indicated by the circumstances; and
 - (c) has no knowledge that the reliance is unwarranted.

Disclosure of interests of members in matters of Council

13 Meaning of interested

- (1) A member is **interested** in a transaction of, or other matter relating to, the Council if, and only if, the member—
 - (a) is a party to, or will or may derive a material financial benefit from, the transaction or matter; or

- (b) has a material financial interest in another party to the transaction or a person to whom the matter relates; or
 - (c) is a director, officer, member, or trustee of another party to, or a person who will or may derive a material financial benefit from, the transaction or matter; or
 - (d) is the parent, child, or spouse of another party to, or a person who will or may derive a material financial benefit from, the transaction or matter; or
 - (e) is otherwise directly or indirectly materially interested in the transaction or matter.
- (2) However, a member is not interested in a transaction or other matter merely because he or she is a member of a professional engineering body.

14 Obligation to disclose interest

A member who is interested in a transaction or proposed transaction of, or other matter relating to, the Council must disclose the nature of the interest in accordance with clause 15 as soon as practicable after the member becomes aware that he or she is interested.

15 Method of disclosure of interest

- (1) If clause 14 applies, the member must disclose the details listed in subclause (2) in an interests register and to—
- (a) the chairperson or, if there is no chairperson, the deputy chairperson; or
 - (b) if the member concerned is the chairperson or the positions of the chairperson and deputy chairperson are vacant, the Minister.
- (2) The details are—
- (a) the nature of the interest and the monetary value of the interest (if the monetary value can be quantified); or
 - (b) the nature and extent of the interest (if the monetary value cannot be quantified).

16 Consequences of interest

A member who is interested in a transaction or proposed transaction of, or other matter relating to, the Council—

- (a) must not vote or take part in any deliberation or decision of the board or any board committee relating to the matter; and
- (b) must be disregarded for the purpose of forming a quorum for that part of a meeting of the board or board committee during which a deliberation or decision relating to the matter occurs or is made.

Confidentiality of information

17 Confidentiality of information

- (1) A member who has information in his or her capacity as a member that would not otherwise be available to him or her must not disclose that information to any person, or make use of, or act on, that information, except—
 - (a) for the purposes of the Council; or
 - (b) as required or permitted by law; or
 - (c) in accordance with subclause (2); or
 - (d) in complying with clauses 14 and 15.
- (2) A member may disclose, make use of, or act on the information if—
 - (a) the member is first authorised to do so by the board; and
 - (b) the disclosure, use, or act in question will not, or will not be likely to, prejudice the Council.

Liability of Council and others

18 Liability of Council and others

Neither the Council nor a member, employee, or agent of the Council is liable for any act or omission done, in good faith, in the pursuance or intended pursuance and exercise of the functions and powers of the Council.

Members' remuneration and allowances

19 Members' remuneration and allowances

A member is entitled to receive, from the funds of the Council, remuneration and allowances for services as a member in accordance with the framework determined by the Government

from time to time for the classification and remuneration of members of statutory and other bodies.

Chairperson and deputy chairperson

20 Appointment

- (1) The Minister may appoint a member as the chairperson of the board by written notice to the member (with a copy to the board).
- (2) The Minister may appoint another member as deputy chairperson of the board by written notice to the member (with a copy to the board).
- (3) The notice of appointment must state the date on which the appointment takes effect.

21 Term of appointment

The chairperson and the deputy chairperson each holds that office from the date stated in the notice of appointment until he or she—

- (a) resigns from that office; or
- (b) is removed from it by the Minister; or
- (c) ceases to hold office as a member.

22 Resignation

- (1) A chairperson or deputy chairperson may, without resigning as a member, resign from that office by written notice to the Minister (with a copy to the board).
- (2) The notice of resignation must state the date on which the resignation takes effect.

23 Removal

- (1) The Minister may remove a chairperson or deputy chairperson from that office by written notice to the person (with a copy to the board).
- (2) The notice of removal must state the date on which the removal takes effect.

24 Exercise of chairperson's functions, duties, and powers during vacancy

If there is no chairperson or, for any reason, the chairperson is unable to perform his or her functions, duties, and powers as chairperson, the deputy chairperson has all the functions, duties, and powers of the chairperson.

Procedures of board

25 Procedure generally

Except as otherwise provided in this Act, the members may regulate their own procedure.

26 Dates, times, and places of meetings

- (1) The board or the chairperson must appoint the dates, times, and places for meetings of the board, and give notice of those meetings to each member not present when the appointment is made.
- (2) The chairperson or any 2 members may call a special meeting of the board by giving at least 7 days' notice of the special meeting, and of the business to be transacted at the meeting, to each member for the time being in New Zealand.
- (3) No business other than that specified in a notice of special meeting may be transacted at a special meeting.

27 Requirements as to notice of meetings

Notice of a meeting—

- (a) must be written, and state the date, time, and place of the meeting; and
- (b) may be given by post, delivery, or electronic transmission; and
- (c) must be sent to the member's last known address in New Zealand.

28 Methods of holding meetings

A meeting of the board may be held—

- (a) by a number of the members who constitute a quorum being assembled together at the date, time, and place appointed for the meeting; or

- (b) by means of audio, audio and visual, or electronic communication by which all members participating and constituting a quorum can simultaneously communicate with each other throughout the meeting.

29 Quorum

- (1) A quorum for a meeting of the members is—
 - (a) half the number of members (if the board has an even number of members) or a majority of the members (if the board has an odd number of members); but
 - (b) in any case, no less than 3 members.
- (2) No business may be transacted at a meeting of the board if a quorum is not present.

30 Presiding at meetings

- (1) At a meeting of the board, the following person presides:
 - (a) if there is a chairperson and he or she is present, the chairperson; or
 - (b) if there is no chairperson or he or she is not present, the deputy chairperson; or
 - (c) in any other case, a member chosen by the members present to be chairperson of the meeting.
- (2) The elected person may exercise all the powers, duties, and functions of the chairperson for the purposes of the meeting.

31 Voting at meetings

- (1) Each member has 1 vote.
- (2) A resolution of the board is passed if it is agreed to by all members present without dissent or if a majority of the votes cast on it are in favour of it.
- (3) A member present at a meeting of the board is presumed to have agreed to, and to have voted in favour of, a resolution of the board unless he or she expressly dissents from, or votes against, the resolution at the meeting.

32 Unanimous written resolutions

- (1) A resolution signed or assented to in writing (whether sent by post, delivery, or electronic transmission) by all members is as

valid and effectual as if it had been passed at a meeting of the board duly called and constituted.

- (2) The resolution may consist of several documents containing the same resolution, each signed or assented to in writing by 1 or more members.

Delegation

33 Ability to delegate

The board may, by resolution and written notice to a member, to an employee, or to any other person or persons approved by the Minister, delegate (either generally or specifically) any of the functions and powers of the Council or the board to that member, employee, or person or persons.

34 Effect of delegation

- (1) If any functions or powers are delegated under clause 33, the delegate—
- (a) may, unless the delegation provides otherwise, perform the function or exercise the power in the same manner, subject to the same restrictions and duties, and with the same effect as if the delegate were the Council or the board; and
 - (b) may delegate the function or power only if approved by the Minister.
- (2) A delegate who purports to perform a function or exercise a power under a delegation is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of that delegation.
- (3) A delegation under clause 33—
- (a) may be revoked at will by resolution of the board and written notice to the delegate; but
 - (b) does not prevent the Council or board from performing the function or exercising the power.

Method of contracting

35 Method of contracting

- (1) A contract or other enforceable obligation may be entered into by the Council as provided in subclauses (2) to (4).

- (2) An obligation that, if entered into by an individual, is required to be by deed may be entered into on behalf of the Council in writing, signed under the name of the Council, by—
 - (a) 2 or more of its members; or
 - (b) 1 or more attorneys appointed by the Council in accordance with clause 36.
- (3) An obligation that, if entered into by an individual, is required to be in writing may be entered into on behalf of the Council in writing by a person acting under the Council's express or implied authority.
- (4) An obligation that, if entered into by an individual, is not required to be in writing may be entered into on behalf of the Council in writing or orally by a person acting under the Council's express or implied authority.
- (5) This clause applies to a contract or other obligation—
 - (a) whether or not that obligation was entered into in New Zealand; and
 - (b) whether or not the law governing that obligation is the law of New Zealand.

36 Attorneys

- (1) The Council may, by an instrument in writing executed in accordance with clause 35(2), appoint a person as its attorney either generally or in relation to a specified matter.
- (2) An act of the attorney in accordance with the instrument binds the Council.

37 Presumptions and saving of certain transactions

- (1) The validity or enforceability of any deed, agreement, right, or obligation entered into, or incurred, by the Council is not affected by a failure of the Council or its board to comply with any provision of this Act.
- (2) A person purporting to execute any documentation on behalf of the Council under any authority is, in the absence of proof to the contrary, presumed to be acting in accordance with that authority.

Employees

38 Council to be good employer

- (1) The Council must, if it employs employees,—
- (a) operate a personnel policy that complies with the principle of being a good employer; and
 - (b) report on its compliance with that policy (including its equal employment opportunities programme) in its annual report.
- (2) For the purposes of this section, a **good employer** is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—
- (a) good and safe working conditions; and
 - (b) an equal employment opportunities programme; and
 - (c) the impartial selection of suitably qualified persons for appointment; and
 - (d) recognition of—
 - (i) the aims and aspirations of Māori; and
 - (ii) the employment requirements of Māori; and
 - (iii) the need for involvement of Māori as employees of the Council; and
 - (e) opportunities for the enhancement of the abilities of individual employees; and
 - (f) recognition of the aims and aspirations, and the cultural differences, of ethnic or minority groups; and
 - (g) recognition of the employment requirements of women; and
 - (h) recognition of the employment requirements of persons with disabilities.
- (3) For the purposes of this section, an **equal employment opportunities programme** means a programme that is aimed at the identification and elimination of all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality in respect of the employment of any persons or group of persons.

39 Application of Acts to members and employees

No person is, by reason only of that person's appointment as a member of, or employment by, the Council, deemed to be employed in the State services for the purposes of the State Sector Act 1988 or in the Government service for the purposes of the Government Superannuation Fund Act 1956.

Financial provisions

40 Funds of the Council

The funds of the Council consist of—

- (a) all levies required to be paid to the Council under this Act; and
- (b) all other funds received by the Council under this Act; and
- (c) all accumulations of income derived from that money.

41 Bank accounts

- (1) The Council must establish, maintain, and operate 1 or more bank accounts at 1 or more registered banks (within the meaning of the Reserve Bank of New Zealand Act 1989).
- (2) All money received by the Council must be paid into that bank account or 1 of those bank accounts as soon as practicable after it has been received.
- (3) The Council must properly authorise the withdrawal or payment of money from any of its bank accounts.

42 Investment of money

Any money that belongs to the Council and that is not immediately required may be invested subject to the restrictions in section 161 of the Crown Entities Act 2004 (applied as if the Council were a Crown entity).

Schedule 1 clause 42: amended, on 25 January 2005, by section 37(1) of the Public Finance Amendment Act 2004 (2004 No 113).

43 Council not to borrow without consent of Minister of Finance

The Council must not borrow from any person, or amend the terms of any borrowing, without the prior written approval of the Minister of Finance.

44 Auditor-General to be auditor of Council

The Council is a public entity as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor.

Subsidiaries

45 Subsidiaries

The Council must not form, or acquire shares in, any body corporate except as approved by the Minister.

Schedule 2
Enactments amended

s 76

Part 1

Acts amended

Auckland Metropolitan Drainage Act 1960 (1960 No 15 (L))*Amendment(s) incorporated in the Act(s).***Electricity Act 1992 (1992 No 122)***Amendment(s) incorporated in the Act(s).***Fire Service Act 1975 (1975 No 42)***Amendment(s) incorporated in the Act(s).***Hutt Valley Drainage Act 1967 (1967 No 3 (L))***Amendment(s) incorporated in the Act(s).***North Shore Drainage Act 1963 (1963 No 15 (L))***Amendment(s) incorporated in the Act(s).***Public Works Act 1981 (1981 No 35)***Amendment(s) incorporated in the Act(s).***Securities Act 1978 (1978 No 103)***Amendment(s) incorporated in the Act(s).***Soil Conservation and Rivers Control Act 1941 (1941 No 12)***Amendment(s) incorporated in the Act(s).***Transit New Zealand Act 1989 (1989 No 75)***Amendment(s) incorporated in the Act(s).***Wellington Regional Water Board Act 1972 (1972 No 3 (L))***Amendment(s) incorporated in the Act(s).*

Part 2
Regulations amended

Amusement Devices Regulations 1978 (SR 1978/294)

Amendment(s) incorporated in the regulations.

Electricity Regulations 1997 (SR 1997/60)

Amendment(s) incorporated in the regulations.

Fire Engineers' Qualification Notice 1983 (SR 1983/79)

Amendment(s) incorporated in the notice(s).

**Health and Safety in Employment (Pressure Equipment, Cranes,
and Passenger Ropeways) Regulations 1999 (SR 1999/128)**

Amendment(s) incorporated in the regulations.

**Health and Safety in Employment Regulations 1995
(SR 1995/167)**

Amendment(s) incorporated in the regulations.

Heavy Motor Vehicle Regulations 1974 (SR 1974/218)

Amendment(s) incorporated in the regulations.

Surveyors Professional Regulations 1977 (SR 1977/290)

Amendment(s) incorporated in the regulations.

Water Supplies Protection Regulations 1961 (SR 1961/86)

Amendment(s) incorporated in the regulations.

Contents

- 1 General
 - 2 Status of reprints
 - 3 How reprints are prepared
 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
 - 5 List of amendments incorporated in this reprint (most recent first)
-

Notes**1 General**

This is a reprint of the Chartered Professional Engineers of New Zealand Act 2002. The reprint incorporates all the amendments to the Act as at 25 October 2006, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted.

For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint (most recent first)*

Securities Amendment Act 2006 (2006 No 46): section 25

Public Finance Amendment Act 2004 (2004 No 113): section 37(1)

Building Act 2004 (2004 No 72): section 414

**Reprint
as at 1 January 2006**



**Chartered Professional Engineers
of New Zealand Rules (No 2) 2002**

(SR 2002/389)

Pursuant to section 40 of the Chartered Professional Engineers of New Zealand Act 2002, the Institution of Professional Engineers New Zealand Incorporated makes the following rules (which, in the case of the rules containing CPEng standards, have been prepared, and approved by the Chartered Professional Engineers Council, in accordance with section 41 of that Act).

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

These rules are administered by the Institution of Professional Engineers of New Zealand Incorporated.

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Rules

1 Title

These rules are the Chartered Professional Engineers of New Zealand Rules (No 2) 2002.

2 Commencement

These rules come into force on 1 January 2003.

3 Interpretation

In these rules, unless the context otherwise requires,—

Act means the Chartered Professional Engineers of New Zealand Act 2002

applicant's registration date has the meaning set out in rule 18

assessment means an assessment of whether or not the person met—

- (a) the minimum standard for registration; or
- (b) the minimum standard for continued registration

assessment panel means an assessment panel appointed under Part 5

assessor means an assessor appointed under Part 5

chief executive means the chief executive of the Registration Authority

code of ethical conduct means the minimum standards contained in Part 3

Competency Assessment Board means the Competency Assessment Board appointed under Part 5

complaints research officer means a complaints research officer appointed under Part 5

complex engineering activities has the meaning set out in rule 7

complex engineering problems has the meaning set out in rule 7

CPEng equivalence means a qualification or title that the Registration Authority determines requires the holder to have competence at least equivalent to the competence required to be a chartered professional engineer

disciplinary committee means a disciplinary committee appointed under Part 5

investigating committee means an investigating committee appointed under Part 5

material conflict of interest means, in relation to any matter, a financial or other interest that is likely to affect a person's judgement on that matter

meeting method means meeting—

- (a) by assembling together at a place; or
- (b) by means of audio, audio and visual, or electronic communication by which the participants can simultaneously communicate with each other throughout the meeting

minimum standard for continued registration means the minimum standard set out in rule 20

minimum standard for registration means the minimum standard set out in rule 6

notify means send a written notice (by post, email, fax, or other similar means of communication) to the last known address of the person concerned

practice area means an engineer's area of practice, as determined by—

- (a) the area within which he or she has engineering knowledge and skills; and
- (b) the nature of his or her professional engineering activities.

Part 1

Title of chartered professional engineer

4 Title of chartered professional engineer

- (1) A person may represent himself or herself as a chartered professional engineer by using—
 - (a) the words “chartered professional engineer”; or
 - (b) the abbreviation “CPEng”.
- (2) Subclause (1) does not limit any other words, initials, and abbreviations that may be used to represent a person as a chartered professional engineer.

5 Use of title of chartered professional engineer in representing overseas qualifications

A person may use a qualification or title awarded by an overseas agency that contains the title “chartered professional engineer” (or words, initials, or abbreviations of that title) only if the person also states the jurisdiction of the overseas agency in full or by a widely accepted abbreviation in parentheses afterwards.

Part 2
Registration of chartered professional engineers

Subpart 1—Assessment for initial registration

Minimum standard for registration

6 Minimum standard for registration as chartered professional engineer

- (1) To meet the minimum standard for registration, a person must demonstrate that he or she is able to practise competently in his or her practice area to the standard of a reasonable professional engineer.
- (2) The extent to which the person is able to do each of the following things in his or her practice area must be taken into account in assessing whether or not he or she meets the overall standard in subclause (1):
 - (a) comprehend, and apply his or her knowledge of, accepted principles underpinning—
 - (i) widely applied good practice for professional engineering; and
 - (ii) good practice for professional engineering that is specific to New Zealand; and
 - (b) define, investigate, and analyse complex engineering problems in accordance with good practice for professional engineering; and
 - (c) design or develop solutions to complex engineering problems in accordance with good practice for professional engineering; and

- (d) exercise sound professional engineering judgement; and
- (e) be responsible for making decisions on part or all of 1 or more complex engineering activities; and
- (f) manage part or all of 1 or more complex engineering activities in accordance with good engineering management practice; and
- (g) identify, assess, and manage engineering risk; and
- (h) conduct his or her professional engineering activities to an ethical standard at least equivalent to the code of ethical conduct; and
- (i) recognise the reasonably foreseeable social, cultural, and environmental effects of professional engineering activities generally; and
- (j) communicate clearly to other engineers and others that he or she is likely to deal with in the course of his or her professional engineering activities; and
- (k) maintain the currency of his or her professional engineering knowledge and skills.

7 Definitions for purpose of minimum standard for registration

For the purposes of rule 6,—

complex engineering activities means engineering activities or projects that have some or all of the following characteristics:

- (a) involve the use of diverse resources (and, for this purpose, **resources** includes people, money, equipment, materials, and technologies);
- (b) require resolution of significant problems arising from interactions between wide-ranging or conflicting technical, engineering, and other issues;
- (c) have significant consequences in a range of contexts;
- (d) involve the use of new materials, techniques, or processes or the use of existing materials, techniques, or processes in innovative ways

complex engineering problems means engineering problems that have some or all of the following characteristics:

- (a) involve wide-ranging or conflicting technical, engineering, and other issues;
- (b) have no obvious solution and require originality in analysis;
- (c) involve infrequently encountered issues;
- (d) are outside problems encompassed by standards and codes of practice for professional engineering;
- (e) involve diverse groups of stakeholders with widely varying needs;
- (f) have significant consequences in a range of contexts;
- (g) cannot be resolved without in-depth engineering knowledge.

Applications for registration

8 How to apply for registration

- (1) A person may apply to the Registration Authority for registration in accordance with this rule.
- (2) The application must—
 - (a) be made in a form containing the information set out in Schedule 1; and
 - (b) contain or be accompanied by all of the supporting information set out in rule 9; and
 - (c) contain or be accompanied by—
 - (i) a statement signed by the applicant to the effect that all the information is accurate and any evidence provided is genuine; and
 - (ii) a statement of the applicant's agreement to be bound by the rules as amended from time to time; and
 - (d) be accompanied by the registration application charge set out in Schedule 2.
- (3) The applicant must provide all information in writing and must provide 3 copies of that information.

9 Information that must be provided to support application

An applicant must provide the following information in or with an application:

- (a) evidence of the following (if applicable):
 - (i) academic and other relevant qualifications; and
 - (ii) current registration on other professional engineering registers; and
 - (iii) results from other relevant competency assessments; and
 - (iv) professional development activities undertaken; and
- (b) a chronological summary of the applicant's work history (including a description of previous employment positions and professional engineering activities); and
- (ba) a statement of self-review reflecting on the applicant's competence and development as a professional engineer; and
- (c) any other information that the applicant wishes to be considered (which may include work samples from recent professional engineering activities); and
- (d) annotations explaining how the information demonstrates that the applicant meets the minimum standard for registration.

Rule 9(ba): inserted, on 1 January 2005, by rule 3(1) of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

Rule 9(c): amended, on 1 January 2005, by rule 3(2) of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

9A Information missing from application

- (1) The Registration Authority may request an applicant to provide additional information if the application received by the Registration Authority does not contain, or is not accompanied by, all of the obligatory statements and information set out in rules 8 and 9.
- (2) An application lapses if additional information is requested under subclause (1) or rule 11(1) and that information is not received by, as appropriate, the Registration Authority or the assessment panel before the expiry of 6 months after the date of the request.

- (3) If an application lapses, the Registration Authority must—
- (a) return the application and all of the supporting information that accompanied it to the applicant; and
 - (b) refund half of the registration application charge that accompanied the application, unless the application has been given to an assessment panel for evaluation in which case no refund may be made.

Rule 9A: inserted, on 1 January 2005, by rule 4 of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

*Way in which application for registration
must be evaluated and decisions made and
implemented*

10 Assessment panel must evaluate application

An assessment panel must evaluate each application for registration to assess—

- (a) whether or not the applicant has demonstrated that he or she meets the minimum standard for registration; and
- (b) if so, whether the applicant's continued registration should be assessed by the end of the fifth year from 31 December of the year of this assessment, or in an earlier year.

11 Way in which assessment panel must evaluate application

- (1) The assessment panel must evaluate the application in the following way:
- (a) carry out a preliminary evaluation of the information provided and assess whether or not the panel needs more information to complete the assessment; and
 - (b) do all of the following, unless the panel thinks it unnecessary (in which case, it may carry out 1 or more, or none, of the following):
 - (i) carry out an interactive assessment with the applicant by any meeting method; and
 - (ii) require the applicant to carry out a written assignment; and
 - (iii) carry out an assessment of the applicant's engineering knowledge by any method the panel considers appropriate; and

- (c) if the panel thinks it necessary, invite the applicant to provide, within a specified period,—
 - (i) any additional supporting information;
 - (ii) up to 2 further independent referees; and
 - (d) in evaluating the information provided, assess—
 - (i) the extent to which the applicant is able to do the things in subclause (2) of the minimum standard for registration; and
 - (ii) whether or not the applicant meets the overall standard in subclause (1) of the minimum standard for registration, taking its evaluation under subparagraph (i) into account; and
 - (iii) any other matters the panel considers necessary to carry out the assessment; and
 - (e) have regard to any advice provided by a member of the Competency Assessment Board for the purposes of moderating between assessments; and
 - (f) *[Revoked]*
- (2) The assessment panel may take these steps in a different order, repeat or combine any steps, or take additional steps to carry out the assessment.
- (3) After completing the actions required by subclause (1), the assessment panel must make a recommendation to the Competency Assessment Board on the application.

Rule 11(1)(b): substituted, on 1 January 2006, by rule 3 of the Chartered Professional Engineers of New Zealand Amendment Rules 2005 (SR 2005/262).

Rule 11(1)(c)(ii): amended, on 1 January 2005, by rule 5(1) of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

Rule 11(1)(f): revoked, on 1 January 2005, by rule 5(2) of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

Rule 11(3): added, on 1 January 2005, by rule 5(3) of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

12 Competency Assessment Board must make decision on application

- (1) The Competency Assessment Board must, after considering the assessment panel's recommendations and section 8 of the Act,—

- (a) decide to register the applicant or to decline the application; and
 - (b) if it decides to register the applicant, determine whether the applicant's continued registration must be assessed by the end of the fifth year from 31 December of the year of this assessment, or in an earlier year.
- (2) However, the Competency Assessment Board may only decide—
- (a) to decline an application after complying with rule 13; and
 - (b) to reject or vary a recommendation of the assessment panel after complying with rule 14.

13 Competency Assessment Board must give applicant opportunity to respond

If the Competency Assessment Board proposes to decline an application, the Board must—

- (a) notify the applicant of the reasons for the proposed decision; and
- (b) give the applicant a reasonable opportunity to make written submissions on the matter.

Rule 13(a): amended, on 1 January 2005, by rule 6 of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

14 Competency Assessment Board must meet additional requirements if rejecting or varying recommendation

The Competency Assessment Board may only reject or vary a recommendation of the assessment panel if first—

- (a) the Board requires the assessment panel to reconsider its recommendation for the reasons given by the Board; and
- (b) the assessment panel reconsiders its recommendation, carries out any further steps it considers necessary under rule 11, and reports back on whether or not its recommendation should be amended; and
- (c) the Board considers the reconsidered recommendation.

15 Registration Authority must notify and implement decision

The Registration Authority must—

- (a) notify the applicant of the decisions under rule 12 and the reasons for those decisions; and
- (b) if the decision is to register the applicant,—
 - (i) register him or her; and
 - (ii) issue a registration certificate to him or her; and
- (c) rebate to the applicant any part of the registration application charge for which a rebate applies under Schedule 2 (if not already rebated).

Subpart 2—Registration certificates**16 How to apply for registration certificates**

A person may apply to the Registration Authority for a registration certificate by paying the applicable registration certificate charge set out in Schedule 2.

17 Issue of registration certificates

The Registration Authority must issue a registration certificate to a person who applies in accordance with rule 16 if he or she is currently registered.

18 Term for which registration certificates issued

- (1) Registration certificates are issued for a year, or part of a year, that—
 - (a) begins on 1 January or, if the applicant is not currently registered on 1 January, the applicant's registration date under subclause (2); and
 - (b) ends on 31 December.
- (2) The **applicant's registration date** is the date on which the applicant is registered under section 8 of the Act or on which the applicant's registration revives after a period of suspension or abeyance (whichever is applicable).

19 Registration Authority may require cancelled or suspended registration certificates to be returned or destroyed

- (1) A person must, if required by the Registration Authority, return, or notify the Registration Authority that the person has destroyed, a cancelled registration certificate.
- (2) A person must, if required by the Registration Authority, return a registration certificate for the period of any suspension of his or her registration.

Subpart 3—Assessment for continued
registration

Minimum standard for continued registration

20 Minimum standard for continued registration as chartered professional engineer

To meet the minimum standard for continued registration, a person must demonstrate that—

- (a) he or she—
 - (i) is still able to practise competently in his or her current practice area to the standard of a reasonable professional engineer; or
 - (ii) if the person's practice area has changed materially since the last assessment, meets the minimum standard for registration within his or her current practice area; and
- (b) he or she has taken reasonable steps to maintain the currency of his or her professional engineering knowledge and skills within his or her current practice area since the last assessment.

*Minimum frequency of assessments of continued
registration*

21 Minimum frequency of assessment of continued registration

- (1) The Registration Authority must assess whether or not a person meets the minimum standard for continued registration within 5 years from 31 December of the year of the person's last assessment.

- (2) Subclause (1) does not limit the Registration Authority's power under section 11 of the Act to carry out an assessment at any earlier time (including, without limitation, in a year fixed on the person's last assessment).

Commencement of assessment

22 Registration Authority must notify chartered professional engineers of assessment

- (1) Before undertaking an assessment of a person's continued registration, the Registration Authority must notify the person (the **candidate**)—
- (a) that it intends to carry out the assessment; and
 - (b) that the candidate must provide the information required under rule 23 by a specified date; and
 - (c) of the consequences of not providing the information.
- (2) The specified date for providing information must be at least 3 months after the notice under subclause (1).

23 Information that must be provided to demonstrate current competence

- (1) Each candidate who receives a notice under rule 22 must provide to the Registration Authority, by the specified date,—
- (a) a form containing the information set out in Schedule 1; and
 - (b) the supporting information set out in subclause (2); and
 - (c) a statement signed by the applicant to the effect that all the information is accurate and any evidence provided is genuine.
- (2) A candidate must provide the following supporting information:
- (a) evidence of the following (if applicable):
 - (i) academic and other relevant qualifications obtained since his or her last assessment; and
 - (ii) current registration on other professional engineering registers; and
 - (iii) results from other relevant competency assessments since his or her last assessment; and

- (iv) professional development activities undertaken since his or her last assessment; and
 - (b) a chronological summary of the candidate's work history since his or her last assessment (including a description of employment positions and professional engineering activities in that period); and
 - (ba) a statement of self-review reflecting on the candidate's competence and development as a professional engineer; and
 - (c) any other information that the candidate wishes to be considered (which may include work samples from recent professional engineering activities); and
 - (d) annotations explaining how the information demonstrates that the candidate meets the minimum standard for continued registration.
- (3) The candidate must provide all information in writing and must provide 3 copies of that information.

Rule 23(2)(ba): inserted, on 1 January 2005, by rule 7(1) of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

Rule 23(2)(c): amended, on 1 January 2005, by rule 7(2) of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

*Way in which continued registration must be
evaluated and decisions made and implemented*

24 Assessment panel must evaluate continued registration

- (1) An assessment panel must evaluate each candidate for continued registration to assess—
- (a) whether or not the candidate has demonstrated that he or she meets the minimum standard for continued registration; and
 - (b) if so, whether the candidate's continued registration should next be assessed by the end of the fifth year from 31 December of the year of this assessment, or in an earlier year; and
 - (c) if not, whether the candidate's registration should be suspended or removed.
- (2) However, if the candidate does not provide the information required under rule 23 by the specified date,—

- (a) only 1 assessor must evaluate the candidate's continued registration; and
- (b) this subpart applies as if the assessor were the assessment panel (with any necessary modifications).

25 Way in which assessment panel must evaluate continued registration

- (1) The assessment panel must evaluate the candidate's continued registration in the following way:
 - (a) carry out a preliminary evaluation of the information provided and assess whether or not the panel needs more information to complete the assessment; and
 - (b) if the panel thinks it necessary, do both of the following or only an interactive assessment:
 - (i) require the candidate to pay the interactive assessment charge set out in Schedule 2 and carry out an interactive assessment with the candidate by any meeting method;
 - (ii) require the candidate to carry out a written assignment; and
 - (c) if the panel thinks it necessary, invite the candidate to provide, within a specified period,—
 - (i) any additional supporting information;
 - (ii) up to 2 further independent referees; and
 - (d) evaluate the information provided and any other information that the Registration Authority has on the candidate; and
 - (e) have regard to any advice provided by a member of the Competency Assessment Board for the purposes of moderating between assessments; and
 - (f) *[Revoked]*
- (2) The assessment panel may take these steps in a different order, repeat or combine any steps, or take additional steps to carry out the assessment.
- (3) After completing the actions required by subclause (1), the assessment panel must make a recommendation to the Competency Assessment Board on the candidate's continued registration.

Rule 25(1)(c)(ii): amended, on 1 January 2005, by rule 8(1) of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

Rule 25(1)(f): revoked, on 1 January 2005, by rule 8(2) of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

Rule 25(3): added, on 1 January 2005, by rule 8(3) of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

26 Competency Assessment Board must make decision on continued registration

- (1) The Competency Assessment Board must, after considering the assessment panel's recommendations and section 11 of the Act,—
 - (a) decide to confirm the candidate's continued registration, or to remove or suspend the candidate's registration; and
 - (b) if it decides to confirm the candidate's continued registration, determine whether the candidate's continued registration must next be assessed by the end of the fifth year from 31 December of the year of this assessment, or in an earlier year.
- (2) However, the Competency Assessment Board may only decide—
 - (a) to remove or suspend a candidate's registration after complying with rule 27; or
 - (b) to reject or vary a recommendation of the assessment panel after complying with rule 28.

27 Competency Assessment Board must give candidate opportunity to respond

If the Competency Assessment Board proposes to remove or suspend the candidate's registration, the Board must—

- (a) notify the candidate of the reasons for the proposed decision; and
- (b) give the candidate a reasonable opportunity to make written submissions on the matter.

Rule 27(a): amended, on 1 January 2005, by rule 9 of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

28 Competency Assessment Board must meet additional requirements if rejecting or varying recommendation

The Competency Assessment Board may only reject or vary a recommendation of the assessment panel if first—

- (a) the Board requires the assessment panel to reconsider its recommendation for the reasons given by the Board; and
- (b) the assessment panel reconsiders its recommendation, carries out any further steps it considers necessary under rule 25, and reports back on whether or not its recommendation should be amended; and
- (c) the Board considers the reconsidered recommendation.

29 Registration Authority must notify and implement decision

- (1) The Registration Authority must—
 - (a) notify the candidate of the decisions under rule 26 and the reasons for those decisions; and
 - (b) if the decision is to remove or suspend the candidate's registration, remove or suspend that registration; and
 - (c) if the candidate paid an interactive assessment charge, rebate to the candidate any part of the charge for which a rebate applies under Schedule 2 (if not already rebated).
- (2) However, the Registration Authority must not remove or suspend a candidate's registration until the expiry of a period of at least 28 days after the notification of the decision.

30 Complaints arising from assessment of continued registration

If an assessment panel or Competency Assessment Board considers, in the course of carrying out an assessment of continued registration, that there is reason to suspect that the candidate may come within any of the grounds for discipline in section 21 of the Act, the panel or Board must refer the matter to the Registration Authority for consideration under rule 55.

Subpart 4—Review of registration assessment procedures

31 Request for review of assessment procedures

- (1) A person may, in accordance with this rule, apply to the Registration Authority for a review on the ground that the assessment was not carried out in accordance with the procedures set out in the Act or these rules.
- (2) The application must be—
 - (a) made in writing within 14 days after the applicant is notified of the assessment decision; and
 - (b) accompanied by—
 - (i) a statement of how the applicant considers that the assessment was not carried out in accordance with the procedures set out in the Act or these rules; and
 - (ii) any evidence that the applicant wishes to be considered in the review; and
 - (c) accompanied by the charge for reviews set out in Schedule 2.

32 Competency assessment reviewer must carry out review of assessment procedures

A competency assessment reviewer must, as soon as practicable after receiving an application under rule 31, review the procedures followed in carrying out the assessment and—

- (a) refer the matter back to be reassessed from the stage he or she considers necessary if he or she considers that—
 - (i) the assessment was not carried out in accordance with the procedures set out in the Act or these rules; and
 - (ii) this has disadvantaged the applicant; or
- (b) dismiss the application.

33 Registration Authority must notify and implement decision

The Registration Authority must—

- (a) notify the applicant of the decision under rule 32 and the reasons for that decision; and

- (b) if a matter is referred back to be reassessed, implement that decision and refund the charge for the review to the applicant.

34 Subpart does not limit statutory rights of appeal

Nothing in this subpart limits the rights of appeal under the Act.

Subpart 5—Suspensions, removals,
or abeyances of registration for other
non-disciplinary reasons

*Way in which suspensions, removals, and
abeyances for other non-disciplinary reasons
must be decided on and implemented*

35 Registration Authority must give person opportunity to respond

If the Registration Authority proposes to suspend or remove a person's registration or to place a person's registration in abeyance under section 9, section 10, or section 23 of the Act, the Registration Authority must—

- (a) notify the person of the reasons for the proposed decision; and
- (b) give that person a reasonable opportunity to make written submissions on the matter.

Rule 35(a): amended, on 1 January 2005, by rule 10 of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

36 Registration Authority must notify decision

- (1) If the Registration Authority suspends or removes a person's registration under section 9, section 10, or section 23 of the Act, the Registration Authority must—
 - (a) notify a person of its decision and the reasons for that decision; and
 - (b) remove or suspend that registration.
- (2) However, the Registration Authority must not remove or suspend a person's registration until the expiry of a period of at least 28 days after the notification of the decision.

*Voluntary abeyances***37 How to voluntarily place registration into abeyance**

A person may require that his or her registration be placed in abeyance by written notice to the Registration Authority that—

- (a) states the required period of abeyance; and
- (b) is given no less than 7 days before the commencement of that period; and
- (c) is accompanied by the charge for the abeyance period set out in Schedule 2.

38 Minimum and maximum periods of voluntary abeyances

A person may require that his or her registration be placed in abeyance only if the period of abeyance—

- (a) consists of 1 or more periods of 12 months; and
- (b) will expire before the end of the year in which the person's next assessment of continued registration must be carried out.

Subpart 6—Register

39 Additional matters to be shown in register

In addition to the matters required by section 18 of the Act, the register must contain, for each registered person, the year by the end of which the person's next assessment must be carried out.

40 Form of register

The register is an electronic register.

41 Amendment of register

The Registration Authority must amend the register to—

- (a) reflect any changes, or correct any errors, in the information shown in the register as soon as reasonably practicable after being notified, or otherwise becoming aware, of the change or error; and
- (b) on the written request of any person, remove the contact details of that person.

Subpart 7—Miscellaneous

42 Retention of assessment information

- (1) The Registration Authority must keep at least 1 copy of the information provided for each assessment until—
 - (a) the time limit for an appeal under sections 35 and 38 of the Act has expired without an appeal being made; or
 - (b) all appeals on the assessment decision are completed.
- (2) The Registration Authority may continue to hold 1 copy of the information after the dates in subclause (1) provided that it holds that information in compliance with the Privacy Act 1993.

Rule 42 heading: amended, on 1 January 2005, by rule 11(1) of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

Rule 42(2): substituted, on 1 January 2005, by rule 11(2) of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

Part 3

Code of ethical conduct

General obligations to society

43 Take reasonable steps to safeguard health and safety

A chartered professional engineer must, in the course of his or her engineering activities, take reasonable steps to safeguard the health and safety of people.

44 Have regard to effects on environment

- (1) A chartered professional engineer must, in the course of his or her engineering activities,—
 - (a) have regard to reasonably foreseeable effects on the environment from those activities; and
 - (b) have regard to the need for sustainable management of the environment.
- (2) In this rule, **sustainable management** means management that meets the needs of the present without compromising the ability of future generations (including at least the future generations within the anticipated lifetime of the end products and by-products of activities) to meet their own reasonably foreseeable needs.

45 Act with honesty, objectivity, and integrity

A chartered professional engineer must act honestly and with objectivity and integrity in the course of his or her engineering activities.

*General professional obligations***46 Not misrepresent competence**

A chartered professional engineer must—

- (a) not misrepresent his or her competence; and
- (b) undertake engineering activities only within his or her competence; and
- (c) not knowingly permit engineers whose work he or she is responsible for to breach paragraph (a) or paragraph (b).

47 Not misrepresent chartered professional engineer status

A chartered professional engineer must not (in connection with a business, trade, employment, calling, or profession) make a false or misleading representation, or knowingly permit another to make a false or misleading representation, that services are supplied by a chartered professional engineer.

48 Inform others of consequences of not following advice

- (1) A chartered professional engineer who considers that there is a risk of significant consequences in not accepting his or her professional advice must take reasonable steps to inform persons who do not accept that advice of those significant consequences.
- (2) In this rule, **significant consequences** means consequences that involve—
 - (a) significant adverse effects on the health or safety of people; or
 - (b) significant damage to property; or
 - (c) significant damage to the environment.

49 Not promise, give, or accept inducements

A chartered professional engineer must not—

- (a) promise or give to any person anything of substantial value intended to improperly influence that person's decisions that relate to the chartered professional engineer's activities; or
- (b) accept from any person anything of substantial value intended to improperly influence his or her professional engineering decisions.

Obligations to employers and clients

50 Not disclose confidential information

- (1) A chartered professional engineer must not disclose confidential information of an employer or client without the agreement of the employer or client.
- (2) Subclause (1) does not apply if—
 - (a) the failure to disclose information would place the health or safety of people at significant and immediate risk; or
 - (b) the engineer is required by law to disclose that information.

51 Not misuse confidential information for personal benefit

A chartered professional engineer who obtains another person's confidential information in connection with one purpose in the course of his or her professional engineering activities must not use that information for another purpose that is to his or her own personal benefit.

52 Disclose conflicts of interest

A chartered professional engineer must disclose to an employer or client any financial or other interest that is likely to affect his or her judgement on any engineering activities he or she is to carry out for that employer or client.

Obligations owed to other engineers

- 53 Not review other engineers' work without taking reasonable steps to inform them and investigate**
- (1) A chartered professional engineer who reviews another professional engineer's work for the purpose of commenting on that work must take reasonable steps to—
- (a) inform that engineer of the proposed review before starting it; and
 - (b) investigate the matters concerned before commenting.
- (2) Subclause (1) does not apply if taking those steps would result in there being a significant and immediate risk of harm to the health or safety of people, damage to property, or damage to the environment.

Part 4
Disciplining of chartered professional engineers

Complaints and inquiries

- 54 How to complain about chartered professional engineers**
- (1) A person may complain to the Registration Authority about the conduct of a chartered professional engineer or former chartered professional engineer in accordance with this rule.
- (2) The complaint must be made in writing and contain the complainant's name and contact details.
- (3) The Registration Authority must give all reasonable assistance that is necessary in the circumstances to enable a person who wishes to make a complaint to put the complaint in writing.
- 55 Registration Authority may inquire into matters on own motion**
- (1) The Registration Authority may inquire into any matter on its own motion under this Part if it has reason to suspect that a chartered professional engineer or former chartered professional engineer may come within any of the grounds for discipline in section 21 of the Act.
- (2) If subclause (1) applies, the Registration Authority may—

- (a) carry out an initial investigation of the matter in accordance with rules 58 and 59 (other than notifying the complainant under rule 59(a)) as if it were a complaint; or
- (b) if a complaint on that matter has already been made, continue to inquire into the matter even if the complaint is subsequently withdrawn.

Rule 55(2)(a): substituted, on 1 January 2005, by rule 12 of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

Initial investigation of complaint

56 Registration Authority must refer complaint to investigating committee unless grounds for not doing so

The Registration Authority must, as soon as practicable after receiving a complaint, carry out an initial investigation of the complaint in accordance with rule 58 and—

- (a) refer the complaint to an investigating committee; or
- (b) dismiss the complaint on a ground in rule 57.

57 Grounds for not referring complaint to investigating committee

The Registration Authority may dismiss a complaint without referring it to an investigating committee if the chairperson of investigating committees decides under rule 58 that—

- (a) there is no applicable ground of discipline under section 21(1)(a) to (d) of the Act; or
- (b) the subject matter of the complaint is trivial; or
- (ba) the alleged misconduct is insufficiently grave to warrant further investigation; or
- (c) the complaint is frivolous or vexatious or is not made in good faith; or
- (d) the person alleged to be aggrieved does not wish action to be taken or continued; or
- (e) the complainant does not have a sufficient personal interest in the subject matter of the complaint; or
- (f) an investigation of the complaint is no longer practicable or desirable given the time elapsed since the matter giving rise to the complaint.

Rule 57(ba): inserted, on 1 January 2005, by rule 13 of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

58 Way in which decision on whether or not to refer complaint to investigating committee must be made

The Registration Authority must carry out an initial investigation of a complaint against the grounds in rule 57 in the following way:

- (a) the Registration Authority must notify the person complained about of the general nature of the complaint before commencing the investigation; and
- (b) a complaints research officer must carry out the initial investigation of the complaint and recommend to the chairperson of investigating committees that the complaint proceed or be dismissed on a ground in rule 57; and
- (c) the complaints research officer, or chairperson of investigating committees, may seek to verify the information provided in the complaint by a statutory declaration from the complainant; and
- (d) after considering the complaints research officer's recommendation, the chairperson must decide whether the complaint should proceed or should be dismissed on a ground in rule 57.

59 Registration Authority must notify and implement decision

The Registration Authority must—

- (a) notify the complainant and the person complained about of the decision under rule 58 and the reasons for the decision; and
- (b) unless the chairperson of investigating committees decides that the complaint should be dismissed, appoint an investigating committee under rule 84 and refer the complaint to that committee.

*Investigation of complaint or inquiry by
investigating committee*

60 Investigating committee must determine whether or not to refer complaint or inquiry to disciplinary committee

An investigating committee must, as soon as practicable after receiving a complaint or inquiry, investigate the matter and—

- (a) refer the matter to a disciplinary committee; or
- (b) dismiss the matter on a ground in paragraphs (a) to (f) of rule 57.

Rule 60(b): amended, on 1 January 2005, by rule 14 of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

61 Powers of investigating committee

An investigating committee may—

- (a) make, or appoint a person to make, any preliminary inquiries it considers necessary:
- (b) engage counsel, who may be present at a hearing of the committee, to advise the committee on matters of law, procedure, and evidence:
- (c) request the person complained about or the complainant to provide to the committee, within a specified period of at least 14 days that the committee thinks fit, any documents, things, or information that are in the possession or control of the person and that are relevant to the investigation:
- (d) take copies of any documents provided to it:
- (e) request the person complained about or the complainant to attend before the committee, at that person's own cost, on at least 14 days' notice:
- (f) receive any evidence that it thinks fit:
- (g) receive evidence on oath and otherwise in accordance with section 27 of the Act:
- (h) require a person giving evidence to verify a statement by oath or statutory declaration:
- (i) use the powers to summon witnesses under section 28 of the Act:
- (j) provide information to assist the complainant and the person complained about in obtaining counsel or other advocacy assistance.

62 Investigating committee may explore alternative dispute resolution for complaints

- (1) Before making the decision under rule 60 on a complaint, the investigating committee may explore, with the complainant and the person complained about, the possibility of the com-

plaint being referred to conciliation, mediation, arbitration, or another dispute resolution process.

- (2) If a complaint is referred to a dispute resolution process under subclause (1) and the complainant and person complained about fail to resolve the dispute within 60 days of the reference, or within any other time period that the investigating committee thinks fit, the investigating committee must make the decision under rule 60 on the complaint.

63 Investigating committee must give person complained about opportunity to respond

If the investigating committee proposes to refer a complaint or inquiry to a disciplinary committee, the investigating committee must—

- (a) notify the person complained about of the reasons for the proposed decision; and
- (b) give the person complained about a reasonable opportunity to make submissions on the matter.

Rule 63(a): amended, on 1 January 2005, by rule 15 of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

64 Way in which investigating committee's decision must be made

The investigating committee's decision under rule 60 on a complaint or inquiry must be made in the following way:

- (a) the committee must make its decision as soon as practicable, but may delay making the decision until the outcome is known of any other legal proceedings that may affect its findings; and
- (b) if the committee is not unanimous, the decision of the majority of the committee is the decision of the committee (but dissenting members may issue dissenting views).

65 Registration Authority must notify and implement decision

The Registration Authority must—

- (a) notify the complainant and the person complained about of the decision under rule 60, the reasons for the decision, and any dissenting views; and
- (b) if the decision is to refer the complaint or inquiry to a disciplinary committee, appoint a disciplinary committee in accordance with rule 85 and refer the matter to that committee.

Disciplinary committee

66 Disciplinary committee must determine complaint or inquiry

A disciplinary committee must, as soon as practicable after receiving a complaint or inquiry, hear the matter and decide—

- (a) whether or not there are grounds for disciplining the person complained about under section 21 of the Act; and
- (b) if so, whether and how to exercise the Registration Authority's powers under section 22 of the Act.

67 Powers of disciplinary committee

A disciplinary committee may—

- (a) make, or appoint a person to make, any preliminary inquiries it considers necessary;
- (b) engage counsel, who may be present at a hearing of the committee, to advise the committee on matters of law, procedure, and evidence;
- (c) request the person complained about or the complainant to provide to the committee, within a specified period of at least 14 days that the committee thinks fit, any documents, things, or information that are in the possession or control of the person and that are relevant to the investigation;
- (d) take copies of any documents provided to it;
- (e) request the person complained about or the complainant to attend before the committee, at that person's own cost, on at least 14 days' notice;
- (f) receive any evidence that it thinks fit;
- (g) receive evidence on oath and otherwise in accordance with section 27 of the Act:

- (h) require a person giving evidence to verify a statement by oath or statutory declaration;
- (i) use the powers to summon witnesses under section 28 of the Act;
- (j) provide information to assist the complainant and the person complained about in obtaining counsel or other advocacy assistance.

68 Way in which disciplinary committee must consider disciplinary matter

- (1) Before making the decision under rule 66 on a complaint or inquiry, the disciplinary committee must—
 - (a) send details of the complaint or inquiry to the person complained about; and
 - (b) invite him or her to respond in writing to the complaint or inquiry within a specified period (which must be at least 14 days); and
 - (c) give the complainant, the person complained about, and any person alleged to be aggrieved (if not the complainant) at least 28 days' notification of—
 - (i) the time and place of the hearing; and
 - (ii) the right of those persons to be heard and represented at the hearing; and
 - (d) advise each of the persons in paragraph (c) that the person must notify the committee within a specified period (which must be at least 14 days) if the person wishes to be heard by the committee on the complaint or inquiry.
- (2) The complainant, the person complained about, and any person alleged to be aggrieved have the right to be heard and represented at the hearing.

69 Way in which disciplinary committee's decision must be made

The disciplinary committee's decision under rule 66 on a complaint or inquiry must be made in the following way:

- (a) the committee must make its decision as soon as practicable, but may delay making the decision until the outcome is known of any other legal proceedings that may affect its findings; and

- (b) if the committee is not unanimous, the decision of the majority of the committee is the decision of the committee (but dissenting members may issue dissenting views).

70 Registration Authority must notify and implement decision

- (1) The Registration Authority must—
 - (a) notify the complainant and the person complained about of the committee’s decision under rule 66, the reasons for that decision, any dissenting views, and their rights of appeal under the Act; and
 - (b) implement any of those decisions that require actions by it.
- (2) However, the Registration Authority must not implement an order made under section 21 of the Act until the expiry of a period of at least 28 days after notifying the complainant of the decisions.

Part 5
Persons carrying out delegated functions and powers under rules

General provisions

71 Persons carrying out delegated functions and powers under rules

- (1) The Registration Authority may delegate to the following persons, under section 43 of the Act, the functions and powers given to those persons by these rules:
 - (a) assessors and assessment panels appointed under rule 75:
 - (b) the Competency Assessment Board appointed under rule 77:
 - (c) competency assessment reviewers appointed under rule 80:
 - (d) complaints research officers appointed under rule 81:
 - (e) the chairperson and the alternate chairpersons of investigating committees appointed under rule 83:
 - (f) investigating committees appointed under rule 84:

- (g) the chairperson and the alternate chairpersons of disciplinary committees appointed under rule 83:
 - (h) disciplinary committees appointed under rule 85.
- (2) This rule does not limit section 43 of the Act.

Rule 71(1)(e): amended, on 1 January 2005, by rule 16 of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

Rule 71(1)(g): amended, on 1 January 2005, by rule 16 of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

72 General provisions about procedures of persons carrying out decision-making functions

- (1) Every person or body that carries out decision-making functions under these rules must—
- (a) give reasons for its decisions under these rules; and
 - (b) observe the rules of natural justice.
- (2) Except as otherwise provided in the Act or these rules, that person or body of persons may regulate its own procedure as it thinks fit.

73 Rules do not limit Registration Authority's power to carry out delegated functions and powers

The fact that the rules give a function or power to a person does not prevent the Registration Authority from performing the function or exercising the power.

74 General provisions about appointments, revocations of appointments, and resignations under this Part

- (1) The Registration Authority may appoint a person to a role under this Part by written notice to him or her.
- (2) The Registration Authority may, at any time,—
- (a) revoke a person's appointment to a role under this Part by written notice to him or her:
 - (ab) require a person appointed to a role under this Part not to participate in a matter if the Registration Authority considers that, due to a material conflict of interest or otherwise, it would be inappropriate for that person to participate in his or her role in respect of that matter:
 - (b) reconstitute any body of persons appointed under this Part by written notice to that body.

- (3) Any person appointed to a role under this Part may resign from that role by written notice to the Registration Authority.

Rule 74(2)(ab): inserted, on 1 January 2005, by rule 17 of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

*Persons with delegated functions relating to
registration*

75 Assessment panels and assessors

- (1) The Registration Authority may appoint, for a particular case or class of cases,—
- (a) an assessor; or
 - (b) 2 or more assessors as an assessment panel.
- (2) The Registration Authority must—
- (a) only appoint assessors who are chartered professional engineers or who have CPEng equivalence; and
 - (b) include in each assessment panel at least 1 assessor who has knowledge or experience relevant to the practice area in which the person is being assessed.

76 Procedures of assessment panel

- (1) An assessment panel of 2 members must act unanimously in making decisions.
- (2) If an assessment panel of 3 or more members is not unanimous, the decision of the majority of the panel is the decision of the panel.

77 Competency Assessment Board

- (1) The Registration Authority must appoint a Competency Assessment Board consisting of—
- (a) 4 or more voting members; and
 - (b) 1 member of the Board of the Registration Authority who has no right to vote.
- (2) The Registration Authority must appoint members who are chartered professional engineers or who have CPEng equivalence and, in appointing members, must have regard to—
- (a) the extent of their experience in, and knowledge of, professional engineering; and

- (b) their experience in competency assessments and quality assurance of competency assessments; and
 - (c) achieving a varied representation of geographical areas.
- (3) An appointment—
- (a) is for the term specified by the Registration Authority on making the appointment, up to a maximum term of 2 years for voting members and 1 year for the non-voting member; and
 - (b) may be renewed, but no person may be appointed for more than 3 consecutive terms.

78 Chairperson of Competency Assessment Board

- (1) The Registration Authority may appoint one of the members of the Competency Assessment Board to be the chairperson.
- (2) The chairperson must preside at all meetings of the Competency Assessment Board at which he or she is present.
- (3) In the absence of the chairperson, the members present must appoint one of their number to be the chairperson for the purposes of that meeting.

79 Meetings and procedures of Competency Assessment Board

- (1) The chairperson may convene meetings of the Competency Assessment Board and determine the date, time, and place on which, and the method by which, meetings are held.
- (2) The quorum necessary for the transaction of business at a meeting is a majority of all members (and the non-voting member may be counted in the quorum).
- (3) All questions arising at any meeting of the Competency Assessment Board must be decided by a majority of votes of the voting members who are present and voting.
- (4) The chairperson has a deliberative vote and, in the case of an equality of votes, also has a casting vote.
- (5) A resolution signed or assented to in writing (whether sent by post, delivery, or electronic transmission) by all voting members is as valid and effectual as if it had been passed at a meeting of the Competency Assessment Board duly called and constituted.

- (6) The resolution may consist of several documents containing the same resolution, each signed or assented to in writing by 1 or more voting members.

80 Competency assessment reviewer

- (1) The Registration Authority may appoint, for a particular case or class of cases, a competency assessment reviewer.
- (2) The Registration Authority must appoint competency assessment reviewers who—
- (a) are chartered professional engineers or who have CPEng equivalence; or
 - (b) have other qualifications or experience that the Registration Authority considers relevant to the subject matter of the case.

Persons with delegated functions relating to disciplinary matters

81 Complaints research officers

- (1) The Registration Authority may appoint, for a particular case or class of cases, a complaints research officer.
- (2) The Registration Authority must appoint complaints research officers who—
- (a) are chartered professional engineers or who have CPEng equivalence; or
 - (b) have other qualifications or experience that the Registration Authority considers relevant to the subject matter of the case.
- (3) In appointing a complaints research officer for a case or class of cases, the Registration Authority must endeavour to select a person who does not have a material conflict of interest on the case or class of cases.

82 Registration Authority must keep list of persons who may be members of committees

- (1) The Registration Authority must keep a list of persons who may be members of investigating committees and disciplinary committees.

- (2) The Registration Authority must select persons for the list who are chartered professional engineers or who have CPEng equivalence and, in selecting persons, must have regard to—
- (a) the extent of their experience in, and knowledge of, professional engineering; and
 - (b) their experience in competency assessments; and
 - (c) their experience in investigating and hearing complaints relating to professional engineering or other professions.

83 Chairpersons and alternate chairpersons of investigating and disciplinary committees

- (1) The Registration Authority must appoint persons from the list kept under rule 82 to be—
- (a) the chairperson of investigating committees, and the alternate chairperson of investigating committees; and
 - (b) the chairperson of disciplinary committees, and the alternate chairperson of disciplinary committees.
- (1A) The Registration Authority may appoint more than 1—
- (a) alternate chairperson of investigating committees; and
 - (b) alternate chairperson of disciplinary committees.
- (2) An appointment—
- (a) is for the term specified by the Registration Authority on making the appointment, up to a maximum term of 2 years; and
 - (b) may be renewed, but no person may be appointed for more than 3 consecutive terms.
- (3) An alternate chairperson has all the functions, duties, and powers of the chairperson under these rules if—
- (a) there is no chairperson or, for any reason, the chairperson is unable to perform and exercise his or her functions, duties, and powers as chairperson; or
 - (b) in relation to a particular matter,—
 - (i) the Registration Authority refers the matter to the alternate chairperson instead of the chairperson; or
 - (ii) the chairperson considers it not proper or desirable to participate personally in relation to the matter.

Rule 83(1A): inserted, on 1 January 2005, by rule 18(1) of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

Rule 83(3): amended, on 1 January 2005, by rule 18(2) of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

84 Investigating committee

- (1) The Registration Authority may appoint, for a particular case or class of cases, an investigating committee consisting of—
 - (a) the chairperson or an alternate chairperson of investigating committees; and
 - (b) 2 other persons from the list kept under rule 82.
- (2) In appointing a member to a committee for a case or class of cases, the Registration Authority must endeavour to select a person who does not have a material conflict of interest on the case or class of cases.

Rule 84(1)(a): amended, on 1 January 2005, by rule 19 of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

85 Disciplinary committee

- (1) The Registration Authority may appoint, for a particular case or class of cases, a disciplinary committee consisting of—
 - (a) the chairperson or an alternate chairperson of disciplinary committees; and
 - (b) 1 other person from the list kept under rule 82; and
 - (c) 1 person who—
 - (i) is not an engineer; and
 - (ii) is nominated by a body that the Registration Authority considers to be representative of consumer interests.
- (1A) The Registration Authority may appoint a further 2 persons to a disciplinary committee for a particular case or class of cases if it considers it appropriate or necessary in the circumstances.
- (1B) Any 2 persons appointed under subclause (1A) must consist of—
 - (a) 1 person from the list kept under rule 82; and
 - (b) 1 person who—
 - (i) is not an engineer; and
 - (ii) is nominated by the Registration Authority.

- (2) In appointing a member to a disciplinary committee for a case or class of cases, the Registration Authority must endeavour to select a person who does not have a material conflict of interest on the case or class of cases.

Rule 85(1): substituted, on 1 January 2005, by rule 20 of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

Rule 85(1A): inserted, on 1 January 2005, by rule 20 of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

Rule 85(1B): inserted, on 1 January 2005, by rule 20 of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

Part 6 Rule-making procedure

86 Procedure for making, amending, or revoking rules

- (1) Before the Registration Authority makes a rule, it must—
- (a) publish—
 - (i) the terms of the proposed rule; and
 - (ii) the reasons for its proposal; and
 - (b) give persons a reasonable opportunity to make submissions on the proposal; and
 - (c) in the case of a rule containing a CPEng standard, obtain the approval of the Council to the proposed rule in accordance with section 41 of the Act.
- (2) In this rule, **publish** means publish by all or any of the following means:
- (a) on a website maintained by the Registration Authority;
 - (b) by specifically notifying chartered professional engineers and, if practicable, other professional engineers;
 - (c) in journals for professional engineering;
 - (d) by any other means that the Registration Authority considers necessary or desirable to give notice to professional engineers and other persons whom it reasonably considers to be representative of other persons or classes of persons affected by the proposed rule.
- (3) The requirements of this rule that apply to making a rule apply also to any amendment or revocation of a rule.

87 Exception for cases of urgency

Rule 86(1)(a) and (b) does not apply if the Registration Authority considers that it is necessary or desirable in the public interest that the rule be made urgently, but in this case it must comply with those paragraphs to the extent it considers practicable given the urgency.

Part 7 Miscellaneous

88 Revocation of Chartered Professional Engineers of New Zealand Rules 2002

The Chartered Professional Engineers of New Zealand Rules 2002 (SR 2002/358) are revoked.

Schedule 1 Information that must be contained in form for assessments

rr 8, 23

An assessment form for an applicant for registration or candidate for continued registration must contain the following information:

- (a) the full name of the person; and
- (b) the persons's contact details for matters relating to the assessment and for ongoing matters relating to his or her registration; and
- (c) whether or not the person consents to his or her contact details being included on the register and, if so, the appropriate contact details; and
- (d) whether the assessment is for initial registration or continued registration; and
- (e) the practice area in which the person wishes to be assessed and the fields of engineering within which the practice area lies; and
- (f) the contact details of 2 independent referees who are chartered professional engineers or who have CPEng equivalence; and
- (g) details of any convictions of the person by any court in New Zealand or elsewhere for an offence punishable by imprisonment for a term of 6 months or more.

Reprinted as at
1 January 2006

**Chartered Professional Engineers of New
Zealand Rules (No 2) 2002**

Schedule 2

Schedule 1 paragraph (e): amended, on 1 January 2005, by rule 21(a) of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

Schedule 1 paragraph (f): amended, on 1 January 2005, by rule 21(b) of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

Schedule 1 paragraph (g): substituted, on 1 January 2005, by rule 21(c) of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

Schedule 2

rr 8, 15, 16, 25, 29, 31, 37

Charges

Schedule 2: substituted, on 1 January 2006, by rule 4 of the Chartered Professional Engineers of New Zealand Amendment Rules 2005 (SR 2005/262).

Initial registration

Charge or rebate	Amount (excl GST)
Registration application charge:	\$2,652.50
<i>less any of the following rebates that apply:</i>	
if there is no engineering knowledge assessment:	\$1,000
if there is no interactive assessment:	\$725
for each assessor (if any) who is not remunerated for an assessment during which there is an interactive assessment:	\$530
for each assessor (if any) who is not remunerated for an assessment during which there is no interactive assessment:	\$280
if the applicant applies for registration within 6 months after achieving CPEng equivalence through assessment by the Registration Authority:	\$375
if the applicant applies for registration within 24 months (but later than 6 months) after achieving CPEng equivalence through assessment by the Registration Authority:	\$125
if the applicant has enrolled in a graduate competence development programme recognised by the Registration Authority for at least 3 years before making the application for registration, but has not achieved CPEng equivalence through assessment by the Registration Authority:	\$90

Registration certificates

Charge	Amount (excl GST)
Registration certificate charge for a certificate issued for 1 year commencing 1 January:	\$285
Registration certificate charge for each calendar month, or part of a calendar month, for which a certificate is issued if issued for less than 1 year:	\$23.75

Continued registration

Charge or rebate	Amount (excl GST)
Interactive assessment charge:	\$725
<i>less the following rebate if it applies:</i>	
for each assessor (if any) who is not remunerated for the interactive assessment:	\$280

Review of registration decision procedures

Charge	Amount (excl GST)
Charge for review of decision procedures:	\$750

Voluntary abeyance

Charge	Amount (excl GST)
Charge for each 12-month period of abeyance:	\$150

Dated at Wellington this 3rd day of December 2002.

The Common Seal of the Institution of Professional Engineers New Zealand Incorporated was affixed in the presence of:

Reprinted as at **Chartered Professional Engineers of New**
1 January 2006 **Zealand Rules (No 2) 2002**

[Seal]

John Webster,
President.

A C Cleland,
Chief Executive.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 5 December 2002.

Chartered Professional Engineers of New Zealand Amendment Rules 2004

(SR 2004/413)

Pursuant to section 40(2) and (3) of the Chartered Professional Engineers of New Zealand Act 2002, the Institution of Professional Engineers New Zealand Incorporated, after complying with rule 86 of the Chartered Professional Engineers of New Zealand Rules (No 2) 2002, makes the following rules.

Rules

1 Title

- (1) These rules are the Chartered Professional Engineers of New Zealand Amendment Rules 2004.
- (2) In these rules, the Chartered Professional Engineers of New Zealand Rules (No 2) 2002 (SR 2002/389) are called “the principal rules”.

2 Commencement

These rules come into force on 1 January 2005.

23 Transitional provisions

- (1) Every application for registration under rule 8 of the principal rules that has, immediately before the commencement of these rules, been made, must be considered and determined as if these rules had not been made.
- (2) Every application for continued registration under rule 23 of the principal rules that has, immediately before the commencement of these rules, been made, must be considered and determined as if these rules had not been made.
- (3) Rule 9A(2) and (3) of the principal rules (as inserted by these rules) only applies to a request made (under subclause (1) of that rule) on or after 1 January 2005.
- (4) All inquiries, investigations, hearings, and disciplinary proceedings under the principal rules that have been commenced before the commencement of these rules and that have not

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1 January 2006 Zealand Rules (No 2) 2002**

been completed before that commencement are to be continued and completed as if these rules had not been made.

- (5) The principal rules, as amended by these rules, apply to any inquiry or complaint commenced or made on or after 1 January 2005 regardless of whether the matter that is the subject of the inquiry or complaint occurred before or after that date.

Dated at Wellington this 30th day of November 2004.

The Common Seal of the Institution of Professional Engineers of New Zealand Incorporated was affixed in the presence of:

I M Parton,
President.

A C Cleland,
Chief Executive.

Date of notification in *Gazette*: 2 December 2004.

Contents

- 1 General
- 2 Status of reprints
- 3 How reprints are prepared
- 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
- 5 List of amendments incorporated in this reprint (most recent first)

Notes**1 General**

This is a reprint of the Chartered Professional Engineers of New Zealand Rules (No 2) 2002. The reprint incorporates all the amendments to the rules as at 1 January 2006, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions,

see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)
- position of the date of assent (it now appears on the front page of each Act)

- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*

Chartered Professional Engineers of New Zealand Amendment Rules 2005 (SR 2005/262)

Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413)
