

# Chartered Professional Engineers of New Zealand Act 2002

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

## Contents

1	Title	17	Form of register
	<b>Part 1</b>	18	Matters to be shown in register
	<b>Preliminary provisions</b>	19	Register to be public
2	Commencement		<i>Disciplining of chartered professional engineers</i>
3	Purpose of Act	20	Complaints on chartered professional engineers
4	Interpretation	21	Grounds for discipline of chartered professional engineers
5	Act to bind the Crown	22	Disciplinary penalties
	<b>Part 2</b>	23	Non-payment of fines or costs
	<b>Chartered professional engineers</b>		<i>Decision-making functions and general procedure of decision authorities under this Part</i>
	<i>Title of chartered professional engineer and its protection</i>	24	Decision-making functions of Registration Authority and Council under this Part
6	Title of chartered professional engineer	25	Specified procedure for making decisions
7	Protection of title of chartered professional engineer	26	Other procedure for making decisions
	<i>Registration of chartered professional engineers</i>		<i>Powers and procedure of decision authorities on disciplinary matters</i>
8	Requirements for initial registration as chartered professional engineer	27	Registration Authority and Council may hear evidence for disciplinary matters
9	Issue and term of registration certificate	28	District Court may authorise Registration Authority or Council to summon witnesses on disciplinary matters
10	Registration charges	29	Issuing of summons by Registration Authority or Council
11	Chartered professional engineer to meet minimum standards for continued registration	30	Serving of summons
12	Removal from register		
13	Suspension from register		
14	Placing registration in abeyance		
15	Effect of suspension or abeyance of registration		
	<i>Register of chartered professional engineers</i>		
16	Registration Authority to keep register of chartered professional engineers		

<p>31 Witnesses' fees, allowances, and expenses</p> <p>32 Failure to comply with summons</p> <p>33 Protection for members of decision authorities and others for disciplinary matters</p> <p>34 Enforcement of orders</p> <p style="padding-left: 40px;"><i>Appeal of decisions</i></p> <p>35 Right of appeal</p> <p>36 Decisions to have effect until appeal</p> <p>37 Hearing and determination of appeal</p> <p>38 Appeal to High Court on questions of law</p> <p style="text-align: center;"><b>Part 3</b></p> <p style="text-align: center;"><b>Registration Authority and Chartered Professional Engineers Council</b></p> <p style="padding-left: 40px;"><i>Registration Authority</i></p> <p>39 Functions of Registration Authority</p> <p>40 Rules relating to chartered professional engineers</p> <p>41 Particular requirements for preparation and approval of rules containing CPEng standards</p> <p>42 Application of Regulations (Disallowance) Act 1989 and Acts and Regulations Publication Act 1989 to rules</p> <p>43 Registration Authority may delegate functions</p> <p style="padding-left: 40px;"><i>Chartered Professional Engineers Council</i></p> <p>44 Establishment of Chartered Professional Engineers Council</p> <p>45 Functions of Council</p> <p>46 Body corporate status and powers</p> <p>47 Powers to be exercised for purpose of functions</p> <p>48 Members and their role</p> <p>49 Composition of board</p> <p>50 Criteria for appointment</p> <p>51 Further provisions as to Council and its board in Schedule 1</p> <p style="padding-left: 40px;"><i>Reporting by Registration Authority and Council</i></p> <p>52 Registration Authority to provide annual performance report to Council</p> <p>53 Council to provide annual performance reports on Registration Authority to Minister</p> <p>54 Obligation for Council to prepare own annual report</p>	<p>55 Annual financial statements and statement of responsibility</p> <p>56 Audit</p> <p>57 Obligation for Council to provide own annual report to Minister</p> <p>58 Council to publish reports</p> <p>59 Annual reports to be presented to House of Representatives</p> <p>60 Power of Minister to require information relating to affairs of Council</p> <p>61 Financial year of Council</p> <p style="text-align: center;"><b>Part 4</b></p> <p style="text-align: center;"><b>Miscellaneous provisions</b></p> <p style="padding-left: 40px;"><i>Miscellaneous</i></p> <p>62 Certificate of Registration Authority or Council to be conclusive evidence</p> <p>63 Payment and application of charges, fines, and other money</p> <p>64 Annual levy to be paid by Registration Authority to Council</p> <p>65 Regulations</p> <p style="padding-left: 40px;"><i>Transitional and consequential provisions—Outline</i></p> <p>66 Outline of transitional and consequential provisions</p> <p style="padding-left: 40px;"><i>Transitional and consequential provisions relating to establishment of Council</i></p> <p>67 Members of Engineers Registration Board to be members of Council on commencement date</p> <p>68 Engineers Registration Board to pay start-up amount to Council</p> <p>69 Related amendments to other Acts</p> <p style="padding-left: 40px;"><i>Transitional and consequential provisions relating to establishment of register of chartered professional engineers</i></p> <p>70 Rules must be made and provided to Council before 1 November 2002</p> <p>71 Registration Authority not to register persons for 6-month establishment period</p> <p>72 Related amendment to Privacy Act 1993 at end of establishment period</p> <p style="padding-left: 40px;"><i>Transitional and consequential provisions relating to ending of title of registered engineer</i></p> <p>73 Engineers Registration Board to cease new registrations from end of establishment period</p>
--	--

74	Dissolution of Engineers Registration Board at end of transitional period	77	Prohibition on use of title of registered engineer from end of transitional period
75	Repeal of Engineers Registration Act 1924 at end of transitional period		
76	Other enactments amended at end of transitional period		

**Schedule 1**  
**Further provisions applying to Council and its board**

**Schedule 2**  
**Enactments amended**

**The Parliament of New Zealand enacts as follows:**

**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.
- (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.

**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 may publicly notify an order in any other way it thinks fit, but 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.

**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 pursuance 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 IV 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 registration; and

- (b) minimum standards for demonstrating current competence in professional engineering that must be met for continued registration, 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:

*Title of chartered professional engineer*

- (a) 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:

*Registration of chartered professional engineers*

- (c) 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.

**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 register 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**

- (1) The Ombudsmen Act 1975 (1975 No 9) is amended by inserting in Part II of the First Schedule, in its appropriate alphabetical order, the following item:  
Chartered Professional Engineers Council and every subsidiary of the Chartered Professional Engineers Council.
- (2) Schedule 2 of the Public Audit Act 2001 (2001 No 10) is amended by inserting, in its appropriate alphabetical order, the following item:  
Chartered Professional Engineers Council.

*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**

On the end of the establishment period, Part I of the Second Schedule of the Privacy Act 1993 (1993 No 28) is amended by adding the following item:

Chartered Professional Engineers of  
New Zealand Act 2002

sections 16 to 19.

*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) On the end of the transitional period, the First Schedule of the Fees and Travelling Allowances Act 1951 (1951 No 79) is consequentially amended by omitting the item relating to the Engineers Registration Board.
- (4) On the end of the transitional period, Schedule 2 of the Public Audit Act 2001 (2001 No 10) is amended by omitting the item relating to the Engineers Registration Board.
- (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.
  - (2) A person who contravenes subsection (1) commits an offence, and is liable on summary conviction to a fine not exceeding \$5,000.
-

s 51

## Schedule 1

### 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 member or promoter of, or being concerned or taking part in the management of, a company under section 382, 383, or 385 of the Companies 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.

**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 only in accordance with section 25 of the Public Finance Act 1989 (applied as if the Council were a Crown entity).

**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.

---

s 76

## Schedule 2

### Enactments amended

#### Part 1

#### Acts amended

**Auckland Metropolitan Drainage Act 1960** (1960 No 15 (L))

Repeal section 26(3).

**Electricity Act 1992** (1992 No 122)Repeal the definition of **qualified engineer** in section 2(1) and substitute:

“**qualified engineer** means a person who, by reason of qualifications in electrical engineering,—

“(a) is registered under the Engineering Associates Act 1961 and was so registered immediately before 1 April 1993; or

“(b) was registered under the Engineers Registration Act 1924 immediately before 1 April 1993 and was also so registered immediately before the end of the transitional period (as defined in section 4 of the Chartered Professional Engineers of New Zealand Act 2002)”.

**Fire Service Act 1975** (1975 No 42)

Omit from section 48(6)(c)(ii)(A) the words “an engineer registered under the Engineers Registration Act 1924,” and substitute the words “an engineer with qualifications suitable for the purposes of this Act,”.

Repeal section 91.

**Hutt Valley Drainage Act 1967** (1967 No 3 (L))

Repeal section 21(5).

**North Shore Drainage Act 1963** (1963 No 15 (L))

Repeal section 21(3).

**Public Works Act 1981** (1981 No 35)

Omit from section 169(4) the words “registered engineer” and substitute the word “person”.

Omit from section 170(3) the words “registered engineer” and substitute the word “person”.

**Securities Act 1978** (1978 No 103)

Repeal item 6 of the Second Schedule and substitute:

Part 1—*continued***Securities Act 1978** (1978 No 103)—*continued*

“6 A qualification entitling the holder to practise the profession of engineering in New Zealand (which qualification may consist of membership of the Institution of Professional Engineers of New Zealand Incorporated and require the holder to comply with the applicable rules of the Institution).”

**Soil Conservation and Rivers Control Act 1941** (1941 No 12)

Repeal section 80(4).

**Transit New Zealand Act 1989** (1989 No 75)

Omit from section 76(4) the words “registered engineer” and substitute the word “person”.

Omit from section 77(3) the words “registered engineer” and substitute the word “person”.

**Wellington Regional Water Board Act 1972** (1972 No 3 (L))

Repeal section 22(3).

Part 2  
Regulations amended**Amusement Devices Regulations 1978** (SR 1978/294)

Repeal the definition of **engineer** in regulation 2(1) and substitute:

“**engineer** means a chartered professional engineer (as defined in section 6 of the Chartered Professional Engineers of New Zealand Act 2002) with a qualification in mechanical engineering”.

Omit from form 2 in the First Schedule the words “an engineer registered under the Engineers Registration Act 1924 holding a current annual practising certificate issued under that Act,” and substitute the words “a chartered professional engineer (as defined in section 6 of the Chartered Professional Engineers of New Zealand Act 2002) with a qualification in mechanical engineering.”.

**Electricity Regulations 1997** (SR 1997/60)

Omit from regulation 62(3)(b)(ii) the words “registered under the Engineers Registration Act 1924 or the Engineering Associates Act 1961” and substitute the words “who is a competent engineer”.

**Fire Engineers’ Qualification Notice 1983** (SR 1983/79)

Revoke this notice.

Part 2—*continued*

**Fire Engineers' Qualification Notice 1983** (SR 1983/79)—  
continued

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

Omit from regulation 9(3)(b) the words “registered engineer” and substitute the words “chartered professional engineer (as defined in section 6 of the Chartered Professional Engineers of New Zealand Act 2002) with a qualification in mechanical engineering”.

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

Repeal the definition of **registered engineer** in regulation 2.

Omit from regulation 20(2)(c)(ii) the words “registered engineer” and substitute the words “chartered professional engineer (as defined in section 6 of the Chartered Professional Engineers of New Zealand Act 2002) with a qualification in mechanical engineering”.

**Heavy Motor Vehicle Regulations 1974** (SR 1974/218)

Omit from regulation 11(4) the words “an engineer (who is either registered under the Engineers Registration Act 1924 or is the holder of a certificate of recognition issued by the Engineers Registration Board)” and substitute the words “a chartered professional engineer”.

Omit from regulation 12(2)(a) the words “registered engineer” and substitute the words “chartered professional engineer”.

**Surveyors Professional Regulations 1977** (SR 1977/290)

Omit from the definition of **registered civil engineer** in regulation 2 the words “a person registered as a civil engineer under the Engineers Registration Act 1924” and substitute the words “a chartered professional engineer (as defined in section 6 of the Chartered Professional Engineers of New Zealand Act 2002) with a qualification in civil engineering”.

**Water Supplies Protection Regulations 1961** (SR 1961/86)

Omit from the definition of **engineer** in regulation 2(1) the words “is registered as an engineer under the Engineers Registration Act 1924 or holds a certificate of recognition issued by the Engineers Registration Board constituted under that Act” and substitute the words “is a chartered professional engineer”.

**Legislative history**

11 May 2000	Introduction (Bill 25-1)
24 May 2000	First reading and referral to Commerce Committee
24 August 2001	Reported from Commerce Committee (Bill 25-2)
15 May 2002	Second reading
29 May 2002	Committee of the whole House, third reading
31 May 2002	Royal assent

---

This Act is administered in the Ministry of Economic Development.

---