

Chartered Professional Engineers of New Zealand Amendment Rules 2004

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.

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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) 2002¹ are called “the principal rules”.

2 Commencement

These rules come into force on 1 January 2005.

3 Information that must be provided to support application

- (1) Rule 9 of the principal rules is amended by inserting, after paragraph (b), the following paragraph:
“(ba) a statement of self-review reflecting on the applicant’s competence and development as a professional engineer; and”.
- (2) Rule 9(c) of the principal rules is amended by omitting the words “a statement of self-review reflecting on development as a professional engineer and”.

¹ SR 2002/389

4 New rule 9A inserted

The principal rules are amended by inserting, after rule 9, the following rule:

“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.”

5 Way in which assessment panel must evaluate application

- (1) Rule 11(1)(c)(ii) of the principal rules is amended by inserting, after the word “further”, the word “independent”.
- (2) Rule 11(1) of the principal rules is amended by revoking paragraph (f).
- (3) Rule 11 of the principal rules is amended by adding the following subclause:
- “(3) After completing the actions required by subclause (1), the assessment panel must make a recommendation to the Competency Assessment Board on the application.”

6 Competency Assessment Board must give applicant opportunity to respond

Rule 13(a) of the principal rules is amended by omitting the words “information on which the proposed decision is based”,

and substituting the words “reasons for the proposed decision”.

7 Information that must be provided to demonstrate current competence

- (1) Rule 23(2) of the principal rules is amended by inserting, after paragraph (b), the following paragraph:
“(ba) a statement of self-review reflecting on the candidate’s competence and development as a professional engineer; and.”
- (2) Rule 23(2)(c) of the principal rules is amended by omitting the words “a statement of self-review reflecting on development as a professional engineer and”.

8 Way in which assessment panel must evaluate continued registration

- (1) Rule 25(1)(c)(ii) of the principal rules is amended by inserting, after the word “further”, the word “independent”.
- (2) Rule 25(1) of the principal rules is amended by revoking paragraph (f).
- (3) Rule 25 of the principal rules is amended by adding the following subclause:
“(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.”

9 Competency Assessment Board must give candidate opportunity to respond

Rule 27(a) of the principal rules is amended by omitting the words “information on which the proposed decision is based”, and substituting the words “reasons for the proposed decision”.

10 Registration Authority must give person opportunity to respond

Rule 35(a) of the principal rules is amended by omitting the words “information on which the proposed decision is based”,

and substituting the words “reasons for the proposed decision”.

11 Retention and disposal of assessment information

- (1) The heading to rule 42 of the principal rules is amended by omitting the words “and disposal”.
- (2) Rule 42 of the principal rules is amended by revoking subclause (2), and substituting the following subclause:
“(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.”

12 Registration Authority may inquire into matters on own motion

- Rule 55(2) of the principal rules is amended by revoking paragraph (a), and substituting the following paragraph:
“(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”.

13 Grounds for not referring complaint to investigating committee

- Rule 57 of the principal rules is amended by inserting, after paragraph (b), the following paragraph:
“(ba) the alleged misconduct is insufficiently grave to warrant further investigation; or”.

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

Rule 60(b) of the principal rules is amended by adding the words “on a ground in paragraphs (a) to (f) of rule 57”.

15 Investigating committee must give person complained about opportunity to respond

Rule 63(a) of the principal rules is amended by omitting the words “information on which the proposed decision is based”.

and substituting the words “reasons for the proposed decision”.

16 Persons carrying out delegated functions and powers under rules

Rule 71(1) of the principal rules is amended by omitting the words “alternate chairperson” in both places where they occur, and substituting in each case the words “alternate chairpersons”.

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

Rule 74(2) of the principal rules is amended by inserting, after paragraph (a), the following paragraph:

“(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.”

18 Chairpersons and alternate chairpersons of investigating and disciplinary committees

(1) Rule 83 of the principal rules is amended by inserting, after subclause (1), the following subclause:

“(1A) The Registration Authority may appoint more than 1—
“(a) alternate chairperson of investigating committees; and
“(b) alternate chairperson of disciplinary committees.”

(2) Rule 83(3) of the principal rules is amended by omitting the word “The”, and substituting the word “An”.

19 Investigating committee

Rule 84(1)(a) of the principal rules is amended by inserting, after the words “chairperson or”, the word “an”.

20 Disciplinary committee

Rule 85 of the principal rules is amended by revoking subclause (1), and substituting the following subclauses:

- “(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.”

21 Schedule 1 amended

Schedule 1 of the principal rules is amended by—

- (a) adding to paragraph (e) the words “and the fields of engineering within which the practice area lies” ; and
- (b) inserting in paragraph (f), after the expression “2”, the word “independent” ; and
- (c) revoking paragraph (g), and substituting the following paragraph:

“

- “(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.”

22 Schedule 2 amended

- (1) Schedule 2 of the principal rules is amended by omitting the word “equivalence”, and substituting the words “equivalence through assessment by the Registration Authority”.

- (2) Schedule 2 of the principal rules is amended by adding, after the words “CPEng equivalence” in both places where they appear, the words “through assessment by the Registration Authority”.

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 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:

IM Parton, President.

AC Cleland, Chief Executive.

Explanatory note

This note is not part of the rules, but is intended to indicate their general effect.

These rules, which come into force on 1 January 2005, amend the Chartered Professional Engineers of New Zealand Rules (No

2) 2002 (“the principal rules”) in order to correct a few minor practical difficulties that were encountered in the first 18 months of the principal rules’ operation.

In particular,—

- the information that must be provided to support an application for registration is amended; and
- a new rule 9A is inserted that specifies what is to happen if information is missing from an application for registration; and
- the processes for assessing an application and informing the applicant of an initially negative finding are clarified.

Similar changes are also made to the principal rules regarding the process of applying for continued registration at 5-year intervals.

Rule 42 of the principal rules is amended to allow the Registration Authority to retain 1 copy of the information provided to it for assessment, provided that information is retained in compliance with the Privacy Act 1993.

The investigative and disciplinary powers in the principal rules are amended to—

- authorise the Registration Authority to carry out an initial investigation of a potential disciplinary matter itself before, if need be, referring the matter to an investigating committee, rather than automatically referring the matter to an investigating committee; and
- provide that a complaint can be dismissed if the alleged misconduct is insufficiently grave to warrant further investigation; and
- require the reasons for a proposed decision (rather than the information on which a proposed decision is based) to be given to a person about whom a complaint or decision has been made; and
- authorise the appointment of more than 1 alternative chairperson for both investigating and disciplinary committees; and
- change the requirements for the type and number of people who may form a disciplinary committee.

Rule 74(2) of the principal rules is amended to empower the Registration Authority to deal with a conflict of interest situation on one of its internal committees in a proactive way.

Transitional provisions included in these rules specify how and when the various amendments are to apply.

Issued under the authority of the Acts and Regulations Publication Act 1989.
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