



## ANALYSIS

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 1972, No. 36

**An Act to make provision for the registration of testing laboratories and for that purpose to provide for the establishment of a Testing Laboratory Registration Council and to define the powers and functions of the Council.**

[20 October 1972]

**BE IT ENACTED** by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Testing Laboratory Registration Act 1972.

(2) This Act shall come into force on the 1st day of January 1973.

**2. Interpretation**—In this Act, unless the context otherwise requires,—

“Council” means the Testing Laboratory Registration Council established under this Act:

“Minister” means the Minister of Science:

“Testing” means determining, in whole or in part, the composition or physical properties of a substance or product, calibrating a piece of equipment, or determining the ability of any substance, product, or piece of equipment to satisfy particular requirements; and “test” has a corresponding meaning:

“Testing laboratory” includes the equipment, facilities, staff, records, procedures, and places used in testing.

### *Testing Laboratory Registration Council*

**3. Establishment of Testing Laboratory Registration Council**—(1) There is hereby established for the purposes of this Act a Council, to be known as the Testing Laboratory Registration Council.

(2) The Council shall be a body corporate having perpetual succession and a common seal, and with power to acquire, hold, and dispose of real and personal property, to sue and to be sued, and to do and suffer all such other acts and things as bodies corporate may lawfully do and suffer.

**4. Membership of Council**—(1) The Council shall consist of—

- (a) Two members, being persons with a knowledge of testing procedures, to be appointed by the Minister, one of whom shall be appointed as Chairman:
- (b) Three members to be appointed by the Minister on the nomination of the New Zealand Manufacturers' Federation Incorporated:
- (c) One member to be appointed by the Minister on the nomination of the Standards Council established under the Standards Act 1965:
- (d) The Director-General of the Department of Scientific and Industrial Research:

(e) The Secretary of Industries and Commerce:

(f) The Secretary of the Government Stores Board.

(2) No appointed member shall, by reason of his membership of the Council, be deemed to be employed in the service of the Crown for the purposes of the State Services Act 1962 or of the Superannuation Act 1956.

**5. Term of office of members—**(1) Except as otherwise provided by this Act, the appointed members of the Council shall be appointed for a term not exceeding 3 years but may from time to time be reappointed.

(2) Unless he sooner vacates his office under section 6 of this Act, every appointed member shall continue in office until his successor is appointed, notwithstanding that the term for which the member was appointed may have expired.

**6. Extraordinary vacancies—**(1) Any appointed member may at any time be removed from office by the Minister for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister, or may at any time resign his office by writing addressed to the Minister.

(2) If any appointed member dies, or resigns, or is removed from office, his office shall become vacant and the vacancy so created shall as soon as practicable be filled in the same manner in which the appointment to the vacant office was originally made. Every person so appointed shall be appointed for the residue of the term for which his predecessor was appointed.

(3) The powers of the Council shall not be affected by any vacancy in its membership.

**7. Representation of absent members—**(1) If any member of the Council appointed under paragraph (a) of subsection (1) of section 4 of this Act is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, that member may appoint another person, approved by the Minister in that behalf, to act as his deputy during his incapacity:

Provided that any person appointed by the Chairman of the Council shall be appointed to act as his deputy as a member of the Council and not as Chairman of the Council.

(2) If any member of the Council appointed under paragraph (b) or paragraph (c) of subsection (1) of section 4 of this Act is incapacitated by illness, absence, or sufficient cause from performing the duties of his office, the body that nominated that member may nominate another person whom the Chairman of the Council may authorise to act as the deputy of the member during his incapacity.

(3) Any person who is a member of the Council by virtue of being an officer of a department of State may authorise an appropriate senior officer of the department to act as his deputy and to attend any meeting of the Council in his place or to do any act which that member may do by virtue of his membership of the Council.

(4) Any deputy appointed or authorised under this section shall, while he acts as such, be deemed to be a member of the Council.

(5) No appointment or authorisation of a deputy, and no acts done by him as such, and no acts done by the Council while any deputy is acting as such, shall be questioned in any proceedings on the grounds that the occasion for his appointment or authorisation had not arisen or had ceased.

**8. Deputy Chairman—**(1) The Council shall, at its first meeting and from time to time thereafter, elect one of its appointed members to be Deputy Chairman to hold office as such for the term of his appointment as a member.

(2) The Deputy Chairman shall have and may exercise and perform all the powers and duties of the Chairman—

- (a) With the consent of the Chairman, at any time during the temporary absence of the Chairman:
- (b) Without his consent, at any time while the Chairman is incapacitated or prevented by illness or other cause from performing the duties of his office:
- (c) While there is any vacancy in the office of the Chairman.

**9. Meetings of the Council—**(1) The first meeting of the Council shall be held at a time and place to be appointed by the Minister.

(2) Subsequent meetings of the Council shall be held at such times and places as the Council or the Chairman from time to time appoints:

Provided that the Council shall meet at least once in every year.

(3) The Chairman may at any time call a special meeting of the Council, and shall call a special meeting of the Council at any time when requested to do so in writing by any 3 members of the Council.

(4) At any meeting of the Council a quorum shall consist of 5 members of the Council.

(5) The Chairman shall preside at every meeting of the Council at which he is present. In the absence of the Chairman the Deputy Chairman shall preside. In the absence from any meeting of both the Chairman and the Deputy Chairman the members present shall appoint one of their number to preside at the meeting.

(6) At any meeting of the Council the person presiding shall have a deliberative vote and shall also have a casting vote.

(7) All questions before the Council at any meeting shall be decided by a majority of the valid votes recorded thereon.

(8) Save as expressly provided by this Act, the Council may regulate the procedure of its meetings.

**10. Executive committee**—(1) The Council may from time to time, by resolution, appoint or discharge or alter or continue or reconstitute an executive committee.

(2) The executive committee shall consist of not less than 4 members, and every member of the committee shall be a member of the Council.

(3) The Council may delegate to the executive committee such of its powers and functions as it thinks fit, and, subject to any general or special directions attached by the Council, those powers and functions may be performed and exercised by the committee with the same effect as if they had been conferred directly by this section and not by delegation.

(4) The executive committee purporting to act under any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation, in the absence of proof to the contrary.

(5) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power or function by the Council.

(6) Until any delegation under this section is revoked it shall continue in force according to its tenor, notwithstanding any change in the membership of the Council or of the executive committee.

(7) Subject to any directions given by the Council, the executive committee may regulate its own procedure.

**11. Special committees**—(1) The Council may from time to time, by resolution, appoint or discharge or alter or continue or reconstitute special committees to advise the Council on such matters as are referred to them by the Council.

(2) Any person may be appointed to be a member of a special committee notwithstanding that he is not a member of the Council.

(3) Subject to any directions given by the Council, a special committee may regulate its own procedure.

#### *Functions and Powers*

**12. Functions of the Council**—The general functions of the Council shall be to promote the development and maintenance of good laboratory practice in testing and to establish and maintain a scheme for the registration of testing laboratories in respect of which application is made for registration and which comply with that practice.

**13. Powers of the Council**—(1) The Council shall have all such powers as may be reasonably necessary or expedient to enable it to carry out its functions.

(2) Without limiting the generality of the powers of the Council under subsection (1) of this section it may—

- (a) Provide for the registration of testing laboratories in respect of which application is made for registration and which, in the opinion of the Council, comply with the requirements prescribed by the Council, subject to such conditions, including the period of registration, as it thinks fit;
- (b) Provide for the revocation of the registration of a testing laboratory, after consideration of any submissions made on behalf of the testing laboratory, for failing to comply with all or any of the requirements or conditions prescribed by the Council on the registration of the testing laboratory;
- (c) Require, in respect of every testing laboratory registered under this Act, the institution and maintenance, to the satisfaction of the Council, of control of the tests for which the testing laboratory is registered, and the maintenance of such records as, in the opinion of the Council, are necessary to establish that such control is maintained;
- (d) Authorise the endorsement, in the name of the Council, of test documents issued in respect of tests made by a registered testing laboratory, being tests for which the testing laboratory is registered:

- (e) Co-operate with persons, associations, or organisations engaged in the production of goods in New Zealand and with the Standards Association of New Zealand with the object of maintaining and improving the quality of such goods by the use of testing procedures approved by the Council:
- (f) Co-operate with any person, association, or organisation outside New Zealand having similar functions or objects, with a view to furthering the functions of the Council:
- (g) Become a member of or affiliate to any international body concerned with similar functions or objects:
- (h) Establish and maintain libraries and other sources of information for reference in respect of matters relating to the functions of the Council:
- (i) Collect and disseminate information relating to the testing of goods, including the publication of reports, pamphlets, books, journals, and other publications:
- (j) Provide advisory and other services in respect of the testing of goods:
- (k) Promote research in respect of the methods of testing goods:
- (l) Promote the development of the testing of goods and its acceptance by producers of goods:
- (m) Charge fees in respect of the registration of testing laboratories and of any other services rendered:
- (n) Solicit and accept for the purposes of the Council any money, land, or other property from any person, organisation, local authority, or public body by way of grant, subsidy, donation, gift, subscription, or otherwise; and extend to any person, organisation, local authority, or public body, from whom it accepts any money, land, or other property as aforesaid, such concessions or benefits as it thinks fit:
- (o) Carry out such other powers and duties as are conferred on it by this Act or otherwise.

**14. Powers of Council with respect to property—**(1) With the approval of the Minister, the Council may, out of its funds, purchase, take on lease, or otherwise acquire such land or buildings or parts of buildings as, in the opinion of the Council, are necessary for the performance of its functions, and may sell or exchange any such property, and may pay or receive any money by way of equality of exchange.

(2) The Council may, out of its funds, purchase, take on lease, hire, or otherwise acquire such plant, machinery, or equipment as, in the opinion of the Council, is necessary for the performance of its functions, and may dispose of any such property when it is no longer required.

(3) Nothing in this section shall authorise the sale or exchange of any land granted by the Crown or by any Act as an endowment to the Council.

(4) Any land held by the Council in trust for a special purpose may, with the consent of the Minister, be sold or exchanged under this section, notwithstanding the terms of the trust; but the proceeds of any such sale, and the land or money obtained by any such exchange, shall be subject to the same or similar trusts, so far as may be, as the land so disposed of.

(5) The Council may grant leases of any land vested in it for such period and generally upon such terms and conditions as the Council considers necessary or expedient:

Provided that no lease shall be granted for a term exceeding 10 years without the consent in writing of the Minister.

**15. Staff of the Council**—(1) The Council may from time to time appoint such officers and employees, including acting or temporary or casual officers and employees, as it thinks necessary for the efficient exercise of its powers and functions, and may at any time remove any officer or employee from his office or employment.

(2) Officers and employees of the Council shall be paid such salaries and allowances (within scales fixed by the Council in agreement with the State Services Commission) as the Council from time to time determines.

(3) Before any officer or employee entrusted by the Council with the custody or control of money by virtue of his office or employment enters on the duties of his office, the Council shall take sufficient security for the faithful execution of his office or employment.

(4) Any person in the service of the Crown may be appointed to be an officer or employee of the Council, but no such person shall be entitled to hold office concurrently as an officer or employee of the Council and as a servant of the Crown except—

- (a) In the case of a person subject to Part III of the State Services Act 1962, with the consent of the State Services Commission; and

(b) In any other case, with the consent of the Minister of the Crown to whose control he is subject.

(5) The Council shall out of its funds subsidise or contribute to the National Provident Fund or any other fund or scheme established with the approval of the Minister of Finance for the purpose of providing superannuation or retiring allowances for its officers and employees.

(6) Notwithstanding the provisions of any enactment or any rule of law, no member of the Council shall be deemed to be an officer or employee of the Council.

### *Financial Provisions*

**16. Funds of the Council**—The funds of the Council shall consist of—

- (a) Any money appropriated by Parliament for the purposes of the Council and approved for payment by the Minister of Finance:
- (b) All money paid to the Council by way of grants, subsidies, donations, gifts, fees, subscriptions, rent, interest, and royalties:
- (c) All money derived from the sale of any property held by or on behalf of the Council:
- (d) All other money and property lawfully received by the Council for its purposes:
- (e) All accumulations of income derived from any such money or property.

**17. Investment of funds**—Subject to the terms of any trust or endowment, any money belonging to the Council and available for investment may be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.

**18. Borrowing powers**—With the prior consent in writing of the Minister of Finance, the Council may borrow money from the Crown or any corporation or person; and (for the purpose of securing any money so borrowed) may mortgage, charge, or pledge any right, title, estate, or interest in any of its property.

**19. Money to be banked**—(1) All money received by the Council, or by any officer or employee of the Council, or by any person authorised to receive money on behalf of the

Council, shall, as soon as practicable after its receipt by any of them, be paid into such bank account or bank accounts as the Council from time to time determines.

(2) No money shall be withdrawn from any account of the Council except by cheque or other instrument (not being a promissory note or bill) signed by a person authorised by the Council in that behalf and countersigned by another person so authorised:

Provided that it shall be lawful, with the prior consent in writing of the Audit Office and subject to such conditions as the Audit Office prescribes, for any money to be paid by the Council by cheque bearing facsimiles of the signatures of the persons so authorised to sign cheques, and every cheque bearing those facsimiles shall be deemed to have been duly signed in accordance with this subsection.

(3) Every payment of money by the Council shall be authorised by a prior resolution of the Council or shall be submitted to the Council for authorisation at its next ordinary meeting.

(4) The Council may from time to time authorise the opening and operation of an imprest account which may be held jointly in the names of and be operated on by 2 persons approved by the Council in that behalf, or may, with the express approval in writing of the Audit Office but not otherwise, be in the sole name of and operated on by one such person so approved.

(5) The Council shall from time to time by resolution fix the maximum amount that may be held at any time in the imprest account, not exceeding \$200 in any case where the account may be operated on by one person acting alone, and not exceeding such amount as the Audit Office may approve in any other case.

(6) Money in the imprest account shall be available only for the payment of salaries and wages and emergency expenditure. A statement of all payments made from the imprest account shall be submitted to the Council for its approval at its next ordinary meeting.

**20. Accounts**—(1) The Council shall keep full and correct accounts of all money received and expended by it, and the accounts shall be audited by the Audit Office, which for that purpose shall have and may exercise all the powers that it has under the Public Revenues Act 1953 in respect of public money and the audit of the accounts of local authorities.

(2) The Council shall, as soon as practicable after the end of each financial year ending with the 31st day of March, cause to be prepared a balance sheet and full and true statements and accounts of all of its income and expenditure in that year.

**21. Exemption from taxes—**(1) The Council shall be exempt from the payment of land tax and income tax.

(2) The Third Schedule to the Payroll Tax Act 1970 is hereby amended by inserting, after item 41, the following item:

“41A. The Testing Laboratory Registration Council.”

**22. Members not personally liable—**(1) No member of the Council or of any committee appointed by the Council shall be personally liable for any act done or default made by the Council or the committee in good faith in the course of the operations of the Council or of the committee.

(2) Without limiting the provision of subsection (1) of this section, in any proceedings against any such member in respect of any such act or default alleged to be not in good faith as aforesaid, the member shall not be personally liable if he shows—

- (a) Where the act or default was pursuant to a resolution passed at a meeting of the Council or of the committee of which he was a member, that he was not present when the resolution was passed, or that he voted against it; or
- (b) Where the act or default was not pursuant to such a resolution, that it occurred without his knowledge, or, if within his knowledge, that it occurred against his protest made at or before the time when it occurred.

(3) For the purposes of this section, any such member may at any meeting demand a poll on any proposal before the meeting and require that his vote be recorded thereon, and the person presiding at the meeting shall record the vote accordingly.

**23. Fees and travelling allowances—**(1) The Council is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) There may be paid to members of the Council and of any committee appointed by the Council, out of the funds of the Council, remuneration by way of fees, salary, or allowances, and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

**24. Contributions to the Council's funds**—For the purpose of providing funds for the exercise of the functions of the Council, any local authority or public body may, without further authority than this section, make grants out of its general funds to the Council for such amount as it thinks fit.

**25. Insurance of members**—(1) The Council may from time to time enter into contracts of insurance insuring members of the Council or of any committee appointed by the Council against loss from personal accident arising out of and in the course of the exercise of their powers and duties as members and pay the premium payable in respect of any such contracts.

(2) This section shall continue to apply until Part III of the Accident Compensation Act 1972 comes into force, and shall then expire.

#### *Miscellaneous Provisions*

**26. Annual report**—(1) The Council shall furnish to the Minister a report of its proceedings and operations for each financial year, together with a copy of its audited accounts for that year, as soon as practicable after those accounts have been audited by the Audit Office.

(2) A copy of the report and the audited accounts shall be laid before Parliament as soon as practicable after their receipt by the Minister.

**27. Departments of State to provide services, etc.**—(1) The Crown may from time to time, at the request of the Council, enter into contracts or arrangements for the execution or provision by any department of State of any work or service for the Council, or for the supply to the Council of any goods, stores, or equipment, upon such terms and conditions as may be agreed.

(2) Where at any time during the period ending on the 31st day of March 1974 the Council has not sufficient staff

for the purpose of enabling it to exercise all or any of its powers and functions, the Department of Scientific and Industrial Research may provide such staff and services as may be necessary for that purpose.

**28. Contracts of Council and members—**(1) Part II of the First Schedule to the Public Bodies Contracts Act 1959 is hereby amended by inserting in its appropriate alphabetical order the following item:

“The Testing Laboratory Registration Council	1972, No. 36—The Testing Laboratory Registration Act 1972.”
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(2) Part II of the First Schedule to the Local Authorities (Members’ Interests) Act 1968 is hereby amended by inserting in its appropriate alphabetical order the following item:

“The Testing Laboratory Registration Council	1972, No. 36—The Testing Laboratory Registration Act 1972.”
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**29. Restriction on use of words “Testing Laboratory Registration” in certain circumstances—**(1) Except with the consent of the Governor-General in Council, no association or person, whether a body corporate or not, shall exercise its functions under a name which contains the words “Testing Laboratory Registration” or any abbreviation of these words.

(2) Where any Act provides for the registration of any association of persons, the registering authority may refuse registration, if, in its opinion, the use of the name by which the association desires to be registered is prohibited by subsection (1) of this section.

(3) The provisions of this section shall, with any necessary modifications, apply to a person carrying on business under any name or style other than his own.

(4) Any association which, or person who, does any act in contravention of the provisions of this section commits an offence.

(5) Nothing in this section shall apply to the use by any association or person of any name that was in use in New Zealand by that association or person, or any predecessor in business of that association or person, immediately before the commencement of this Act.

**30. Offences and penalties—**(1) Every person commits an offence against this Act who makes any statement or representation, whether in writing or not, or uses any mark with

reference to any goods, which conveys or is likely to convey the impression that a testing laboratory which is not registered under this Act is so registered.

(2) Every person who commits an offence against this Act for which no specific penalty is provided elsewhere than in this section, shall be liable on summary conviction to a fine not exceeding \$200 and, in the case of a continuing offence, to a further fine not exceeding \$10 for every day on which the offence is continued.

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This Act is administered in the Department of Scientific and Industrial Research.

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