

Chartered Professional Engineers of New Zealand Bill

Member's Bill

Explanatory note

The health, welfare and safety of New Zealanders depends on the high quality of professional engineering services for the design, construction and maintenance of structures, systems, machinery and processes. Whereas the Engineers Registration Act 1924 is outdated, inefficient and out of step with best practice internationally, this Bill proposes a modern light-handed form of regulating the provision of professional engineering services.

The Bill is modelled on the Institute of Chartered Accountants of New Zealand Act 1996 but is less restrictive in that the Institution of Professional Engineers of New Zealand (IPENZ) would not be the only professional body to determine entry standards. The Bill protects the term “chartered professional engineer” and the old term “registered engineer” but does not attempt to prescribe the work that only registered persons can undertake.

The Bill also recognises that engineering is a globalised profession and is consistent with the Washington Convention on engineering services. International compatibility is important for New Zealand maximising the opportunities from exporting engineering expertise in a knowledge economy.

Hon Dr Nick Smith

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Chartered Professional Engineers of New Zealand Act **2000**.
- 2 Commencement** 5
This Act comes into force on 1 July **2000**.

3 Purpose

The purpose of this Act is to—

- (a) ensure the ongoing protection of the health, welfare and safety of users of professional engineering services by establishing and maintaining a Register of practitioners who are certified as competent to provide professional engineering advice; and 5
- (b) ensure that through this Register, New Zealand firms exporting professional engineering services are not disadvantaged when working overseas; and 10
- (c) create within the Institution of Professional Engineers of New Zealand Incorporated (IPENZ) a statutorily backed Register of Chartered Professional Engineers; and
- (d) require the Institution to have rules governing membership, entry onto the Register, continuing professional development, discipline, and other matters, and a code of ethics governing the professional conduct of its members and those on the Register; and 15
- (e) prohibit the use, by persons, of terms implying they are registered engineers or chartered professional engineers when they are not; and 20
- (f) provide for related matters; and
- (h) repeal the Engineers Registration Act 1924.

4 Interpretation

In this Act, unless the context otherwise requires,—

Appeals Committee means the Appeals Committee referred to in **section 7(1)(g)**

Board means the Board of the Institution referred to in **section 7(1)**

Chartered Professional Engineer means a person who, under the rules of the Institution, is entitled to use the designation “chartered professional engineer”

code means the code of ethics of the Institution referred to in **section 8**

disciplinary body means the Disciplinary Committee or the Appeals Committee

Disciplinary Committee means the Disciplinary Committee referred to in **section 7(1)(f)**

- document** includes any book or paper
- Institution** means the Institution of Professional Engineers of New Zealand Incorporated:
- Investigating Committee** means the Investigating Committee referred to in **section 7(1)(e)** 5
- practising certificate** means a certificate of practice issued in accordance with the rules
- practitioner** means those professional engineers deemed eligible for entry onto the Register
- recognised professional engineering body** means a body whose entry standards are benchmarked as being equivalent to the standard operated by the Institution 10
- Register** means the Register of Chartered Professional Engineers referred to in **section 10**
- registration** means registration by the Registrar on a public file 15
- Registration Board** means the Board established under **section 9** to register chartered professional engineers
- rules** means the rules of the Institution made public under **section 7.** 20
- 5 **Act to bind the Crown**
This Act binds the Crown

Part 1

Chartered Professional Engineers of New Zealand

- 6 **Duties and responsibilities of Institution** 25
The duties and responsibilities of the Institution are—
- (a) to establish the Registration Board:
 - (b) to recognise the equivalence of other professional engineering bodies:
 - (c) to determine any specific national requirements: 30
 - (d) to establish such other Registers as may be required in fulfilment of the purpose of this Act:
 - (e) any other functions that are conferred on it by the rules.

7 Rules of Institution

- (1) To fulfil the responsibilities in section 4, the Institution must have rules that provide for—
- (a) a Board of the Institution and the powers of the Board; and 5
 - (b) the admission of members of the Institution, the continuance and the cessation of membership; and
 - (c) the admission of practitioners to the Register, continuance on the Register and the de-registration of chartered professional engineers; and 10
 - (d) a code of ethics and disciplinary procedures covering members; and
 - (e) an Investigating Committee to investigate complaints against members and chartered professional engineers and former members and former chartered professional engineers and the powers and procedure of that Committee; and 15
 - (f) a Disciplinary Committee to hear complaints and matters referred to it by the Investigating Committee and the powers and procedure of that Committee; and 20
 - (g) an Appeals Committee to hear appeals from decisions of the Disciplinary Committee and the powers and procedure of that Committee; and
 - (h) the kinds of conduct, including criminal offences, professional misconduct, and financial misconduct, for which a member or chartered professional engineers or a former member or former chartered professional engineers may be disciplined; and 25
 - (i) the actions that may be taken in respect of, and the penalties that may be imposed on, a member or chartered professional engineer or former member or former chartered professional engineer by the Investigating Committee or a disciplinary body for such conduct; and 30
 - (j) the amendment and replacement of the rules. 35
- (2) In addition to the provisions required by **subsection (1)**, the rules may contain any other provisions that are not inconsistent with this Act or any other Act or any rule of law.
- (3) The Board must, no later than 14 days after the day on which this Act comes into force, publicly disclose and make available on request, the rules of the Institution. 40

- (4) The Board must, no later than 14 days after the passing of any amendment to the rules or replacing the rules, publicly disclose and make available on request, a copy of the amendment or the new rules.

8 Code of ethics 5

- (1) The Institution must always have a code of ethics that governs the professional conduct of members and chartered professional engineers.
- (2) The code of ethics must be prescribed by the Board.
- (3) The Board must, no later than 14 days after the day on which this Act comes into force, publicly disclose and make available on request, a copy of the code. 10
- (4) The Board may at any time amend the code or revoke the code and replace it with a new code.
- (5) The Board must, no later than 14 days after passing any amendment to the code or replacing the code, publicly disclose and make available on request, a copy of the amendment or the new code. 15

Part 2
Registration Board 20

9 Registration Board to be formed

- (1) A Registration Board must be formed to ensure the integrity of the Register of chartered professional engineers.
- (2) The Registration Board's composition must be broadly representative of the engineering profession. 25

10 Duties of Registration Board

The duties of the Registration Board are—

- (a) to establish a Register of Chartered Professional Engineers: 30
- (b) to monitor procedures for entry to, continuance on, and exit from, the Register:
- (c) to ensure that appropriate, benchmarked, standards for entry to, and continuation on, the Register are maintained and published:
- (d) to publish the list of chartered professional engineers on the Register. 35

Part 3

Matters relating to disciplining of chartered professional engineers

- 11 Professional Conduct Committee and disciplinary bodies to observe rules of natural justice** 5
In the exercise of their functions and powers, the Investigating Committee and each disciplinary body must observe the rules of natural justice.
- 12 Evidence at hearings of disciplinary bodies**
- (1) A disciplinary body may— 10
- (a) receive evidence on oath (and for that purpose an officer or employee of the Institution, or a member of the disciplinary body, may administer an oath); and
- (b) permit a person appearing as a witness before it to give evidence by tendering a written statement and verifying that statement by oath. 15
- (2) A hearing before a disciplinary body is a judicial proceeding for the purposes of section 109 of the Crimes Act 1961.
- 13 Disciplinary body may summon witnesses**
- (1) A District Court Judge may, on the application of a party to proceedings before a disciplinary body, give a certificate authorising the disciplinary body to issue a summons under this section. 20
- (2) A District Court Judge must not give a certificate under **subsection (1)** unless satisfied that— 25
- (a) the evidence of the witness is or may be material to the hearing of a matter by the disciplinary body; and
- (b) it is necessary or desirable that the summons be issued to compel the attendance of the witness at the hearing.
- (3) A disciplinary body must, on production of a certificate referred to in **subsection (1)**, issue a summons in writing, signed by a member of the disciplinary body, requiring a person specified in the summons to attend a hearing of the disciplinary body at the time and place specified in the summons and do all or any of the following at the hearing: 30
- (a) give evidence:
- (b) give evidence under oath: 35

- (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.
- (4) A disciplinary body may require that any documents or information produced under this section be verified by oath, statutory declaration, or otherwise. 5
- (5) A disciplinary body may—
 - (a) require that copies of any documents or information produced under this section must also be provided to any person appearing at the hearing; and 10
 - (b) impose any terms and conditions in respect of the provision of copies of any documents or information to a person appearing at the hearing and the use that may be made of them.
- (6) A summons may be served— 15
 - (a) by delivering it to the person summoned; or
 - (b) by posting it to the person summoned at that person's usual place of residence.
- (7) A summons must,— 20
 - (a) if it is to be served under **subsection (6)(a)**, be served at least 24 hours before the attendance of the witness is required;
 - (b) if it is to be served under **subsection (6)(b)**, be served at least 10 days before the attendance of the witness is required. 25
- (8) A summons that is posted shall be treated as having been served when it would have been served in the ordinary course of post.
- (9) There must be paid or tendered to the witness by the person requiring the attendance of the witness at the time the summons is served, or at some other reasonable time before the hearing, the sum estimated to be payable to that witness for fees, allowances, and expenses in accordance with the scales for the time being prescribed by regulations under the Summary Proceedings Act 1957. 30 35

- 14 Protection for members of disciplinary bodies and others**
- (1) No action lies against a member of the Investigating Committee or a disciplinary body in exercising, in good faith, any power or function under this Act or the rules. 5
- (2) Every person who—
- (a) provides documents, things, or information to the Investigating Committee; or
- (b) produces documents or things to a disciplinary body; or
- (c) gives evidence or answers questions at a hearing of a disciplinary body— 10
- has the same privileges as a witness has in a Court.
- (3) Every counsel appearing before a disciplinary body has the same privileges and immunities as counsel in a Court.
- 15 Enforcement of orders** 15
- (1) Where the Investigating Committee or a disciplinary body, acting in accordance with this Act or the rules, makes an order or otherwise exercises any power in respect of any person who is or was a member of the Institution, that order or other exercise of any power has effect whether or not that person remains a member of the Institution. 20
- (2) Where the Investigating Committee or a disciplinary body, acting in accordance with this Act or the rules, orders any person who is or was a member of the Institution to pay a penalty, expenses, or other monetary amount to the Institution, that amount is recoverable by the Institution from that person as a debt due to the Institution, whether or not that person remains a member of the Institution. 25
- Part 4**
- Offences** 30
- 16 Improper use of terms implying registered engineer or chartered professional engineer status**
- (1) Every person commits an offence who,—
- (a) not being a chartered professional engineer, uses in connection with his or her business, employment, or profession any written words, initials, or abbreviations of words intended to cause or which may reasonably 35

- cause any other person to believe that the person is a registered or chartered professional engineer; or
- (b) not being entitled to do so under the rules, describes himself or herself in writing as a registered or chartered professional engineer; or 5
- (c) not being a chartered professional engineer, describes himself or herself in writing as a registered or chartered professional engineer, unless it is proved that the manner and circumstances in which the description was given were such as to raise no reasonable inference that it was referring to a registered or chartered professional engineer; or 10
- (d) not being entitled to do so under the rules, uses in connection with his or her name, or with the name under which he or she carries on business, the initials “R.E.”, “C.P.E.”, or an abbreviation of the words “registered engineer”, “chartered professional engineer”, or any combination of any such initials or abbreviations, unless it is proved that the manner and circumstances in which the initials or abbreviations were used were such as to raise no reasonable inference that they were referring to engineers on the Register. 15 20
- (2) Every person who commits an offence against **subsection (1)** is liable on summary conviction to a fine not exceeding \$10,000.
- 17 Professional engineers must be qualified** 25
- (1) Subject to **subsection (3)**, every person commits an offence who describes himself or herself or holds himself or herself out publicly as a professional engineer unless that person is suitably qualified in accordance with **subsection (2)** to offer professional engineering services to the public. 30
- (2) For the purposes of this section, a person is suitably qualified if that person meets the academic and experiential standards established under **section 10(3)**, whether obtained in New Zealand or elsewhere, that are relevant to the practices of professional engineering. 35
- (3) Nothing in this section prevents any person from practising publicly and calling themselves an engineer or any similar designation in respect of his or her employment or occupation.

- (4) Every person who commits an offence against this section is liable on summary conviction to a fine not exceeding \$10,000.
- 18 Failure to comply with summons of disciplinary body**
- (1) Every person summoned under **section 13** to attend a hearing of a disciplinary body commits an offence if he or she, without sufficient cause, does any or all of the following: 5
- (a) fails to attend in accordance with the summons:
 - (b) does not give evidence when required to do so:
 - (c) does not give evidence under oath when required to do so: 10
 - (d) does not answer any question that is lawfully asked by the disciplinary body:
 - (e) does not provide any documents, things, or information the summons requires that person to provide.
- (2) A person summoned to attend a hearing of a disciplinary body must not be convicted of an offence against **subsection (1)** unless witnesses' expenses are paid or tendered to that person in accordance with **section 13(9)**. 15
- (3) Every person who commits an offence against this section is liable on summary conviction to a fine not exceeding \$2,000. 20

Part 5

Miscellaneous provisions

- 19 References to chartered professional engineers**
- Every reference in any enactment to a chartered professional engineer in relation to the holding of any office, the performance of any function, the exercise of any power, or acting in any particular capacity, must, unless the context otherwise requires, be read as a reference to a chartered professional engineer (within the meaning of **section 4**) who, under the rules, is entitled to hold that office, perform that function, exercise that power, or act in that capacity. 25 30
- 20 Repeals**
- The enactments specified in the Schedule are repealed.
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Schedule
Enactments repealed

s 20

Engineers Registration Act 1924 (1924 No 16: RS Vol 6, p 345)

Engineers Registration Amendment Act 1944 (1944 No 29)

Engineers Registration Amendment Act 1972 (1972 No 56) 5

Engineers Registration Amendment Act 1977 (1977 No 151)

Engineers Registration Amendment Act 1996 (1996 No 121)

Trade and Industry Act Repeal Act 1988 (1988 No 156)

So much of the First Schedule as relates to the Engineers Registra-
tion Amendment Act 1944. 10