



New South Wales

Professional Engineers Registration Bill 2019

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are—

- (a) to establish a scheme for the registration and regulation of professional engineers, and
- (b) to ensure that engineering services are provided by professional engineers.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 sets out the objects of the proposed Act.

Clause 5 provides that the proposed Act binds the Crown.

Part 2 Registration of professional engineers

Division 1 Preliminary

Division 1 sets out the areas of engineering in which a professional engineer may be registered and creates offences for a person, other than a professional engineer, to engage in certain conduct relating to engineering.

Division 2 Application for registration

Division 2 sets out the way in which an individual may apply for registration as a professional engineer. The Division also sets out the requirements for a person to be registered as a professional engineer, including that the person has the appropriate qualifications and competencies for an area of engineering and is otherwise fit to practise as a professional engineer.

Division 3 Determination of application for registration

Division 3 provides for the Board of Professional Engineers to determine an application for registration as a professional engineer and grant or refuse to grant the application.

Division 4 Renewal and restoration of registration

Division 4 sets out the ongoing requirements to retain registration as a practising professional engineer and the process by which the registration of a professional engineer may be restored or renewed.

Division 5 Conditions of registration

Division 5 provides for conditions to be applied to the registration of a professional engineer, including the addition or alteration of conditions.

Division 6 Disclosure by professional engineers

Division 6 requires professional engineers to notify the board of certain matters, including if disciplinary action has been taken against the engineer in another jurisdiction in relation to the practice of engineering.

Division 7 Miscellaneous

Division 7 authorises to the Board of Professional Engineers (the *board*) to undertake inquiries about an applicant's fitness to practise as a professional engineer, to obtain information about the applicant's criminal history and to request information from assessment entities in relation to the applicant.

Division 7 also provides for the surrender of a professional engineer's registration, the refund of certain application fees and the form of a certificate of registration as a professional engineer.

Part 3 Board of Professional Engineers

Division 1 Constitution and functions of board

Division 1 establishes the board and sets out the membership and functions of the board. The board is responsible for the registration of professional engineers and the approval of assessment entities and is subject to the written directions of the Minister.

Division 2 Register of professional engineers

Division 2 requires the board to keep and maintain a register of professional engineers and make the register publicly available.

Part 4 Code of practice

Part 4 provides for the development and publication of a code of practice for professional engineers. The code of practice may be used to provide evidence of appropriate professional conduct for a professional engineer.

Part 5 Complaints and investigations

Division 1 Preliminary

Division 1 defines certain terms used in Part 5 and sets out the circumstances in which the board may exercise its investigation functions. The Part extends to conduct of a professional engineer even if the person has subsequently ceased to be a professional engineer.

Division 2 Complaints

Division 2 establishes a mechanism for complaint handling.

Division 3 Investigations

Division 3 provides for the conduct of investigations into the conduct of professional engineers and contraventions of the proposed Act (including contraventions of the Act by persons who are not professional engineers).

Division 4 Reporting on investigations

Division 4 provides for the preparation of reports about investigations conducted by the board or by another person authorised by the board to conduct an investigation.

Division 5 Action following investigation—professional engineer

Division 5 sets out the procedure for taking disciplinary action as a result of an investigation into the conduct of a professional engineer, including a procedure for the suspension or cancellation of the professional engineer's registration.

Division 6 Action following investigation—person other than professional engineer

Division 6 sets out the procedure for taking action as a result of an investigation into a possible contravention of the proposed Act by a person other than a professional engineer, including commencing proceedings to prosecute the person for an offence.

Part 6 Authorised officers

Division 1 Appointment of authorised officers

Division 1 authorises the board to appoint persons as authorised officers to carry out certain functions under the proposed Act.

Division 2 Information gathering powers of authorised officers

Division 2 establishes the powers of authorised officers to direct persons to produce information or records, to require answers and to record answers or other information given.

Division 3 Entry to premises by authorised officers

Division 3 grants authorised officers authority to enter certain premises for the purposes of conducting an investigation, provides for the issue of search warrants and sets out the powers that may be exercised by an authorised officer while on premises in accordance with Part 6.

Division 4 Miscellaneous

Division 4 sets out certain other matters relating to authorised officers, including offences for obstructing or failing to comply with a direction of an authorised officer.

Part 7 Assessment entities and schemes

Division 1 Applications relating to assessment schemes

Division 1 provides for the board's approval of assessment schemes conducted by an assessment entity in areas of engineering. The Division also makes provision for applications to vary or renew approved assessment schemes.

Division 2 Decision of board

Division 2 provides for the board to grant or refuse applications made under Division 1, including to grant an application subject to conditions.

Division 3 Cancellation, suspension and surrender of approval

Division 3 sets out the circumstances in which the approval of an assessment scheme conducted by an assessment entity may be cancelled or suspended by the board and provides for an assessment entity to surrender an approval.

Division 4 Record of assessment entities

Division 4 requires the board to keep a register of approved assessment entities and the areas of engineering that the entity is approved to provide assessment schemes.

Part 8 Miscellaneous

Part 8 makes provision for the review of decisions made under the proposed Act, the publication of warning notices by the board, the personal liability of authorised officers and members of the board and the making of regulations.

Schedule 1 Savings, transitional and other provisions

Schedule 1 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

Schedule 2 Constitution and procedure of board

Schedule 2 sets out the constitution and procedure of the Board of Professional Engineers.



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New South Wales

Professional Engineers Registration Bill 2019

No. , 2019

A Bill for

An Act to provide for the registration of professional engineers; and for related purposes.

The Legislature of New South Wales enacts—	1
Part 1 Preliminary	2
1 Name of Act	3
This Act is the <i>Professional Engineers Registration Act 2019</i> .	4
2 Commencement	5
This Act commences on 1 January 2022.	6
3 Definitions	7
(1) In this Act—	8
applicant means—	9
(a) in relation to an application for registration as a professional engineer, or the renewal or restoration of the registration, the individual who made the application, and	10 11 12
(b) in relation to an application for the approval, variation or renewal of the approval of an assessment scheme, the entity that made the application.	13 14
approval means the approval of an assessment scheme under Part 7.	15
area of engineering —see section 6(1).	16
assessment entity , in relation to an assessment scheme, means the entity for which the assessment scheme was approved.	17 18
assessment scheme means a scheme approved under Part 7.	19
authorised officer means an authorised officer appointed under Part 6.	20
board means the Board of Professional Engineers constituted by this Act.	21
certificate of registration means the certificate required to be given to a professional engineer under section 13(1)(b).	22 23
Chairperson means the Chairperson of the board.	24
entity means a person or body (whether or not incorporated) but does not include a natural person.	25 26
function includes a power, authority or duty, and exercise a function includes perform a duty.	27 28
motor vehicle has the same meaning as in the <i>Road Transport Act 2013</i> .	29
occupier of premises means the person who has the management or control of the premises.	30 31
premises includes—	32
(a) a building or structure, or	33
(b) land or a place (whether enclosed or built on or not), or	34
(c) a mobile plant, motor vehicle, vessel or aircraft.	35
professional engineer means an individual registered under this Act as a practising professional engineer or non-practising professional engineer.	36 37
professional engineering service means an engineering service that requires, or is based on, the application of engineering principles and data to a design, or to a construction, production, operation or maintenance activity, relating to engineering, and does not include an engineering service that is provided only in accordance with a document that states procedures or criteria—	38 39 40 41 42
(a) for carrying out a design, or a construction, production, operation or maintenance activity, relating to engineering, and	43 44

(b)	the application of which, to the carrying out of the design, or the construction, production, operation or maintenance activity, does not require advanced scientifically based calculations.	1 2 3
	<i>records</i> includes plans, specifications, maps, reports, books and other documents (whether in writing, in electronic form or otherwise).	4 5
	<i>register</i> —see section 39(1).	6
	<i>registered</i> and <i>registration</i> means registered and registration under this Act.	7
	<i>registration period</i> —see section 15(1).	8
	<i>Secretary</i> means the Secretary of the Department of Customer Service.	9
	<i>vessel</i> means any kind of vessel used in navigation.	10
	Note. The <i>Interpretation Act 1987</i> contains definitions and other provisions that affect the interpretation and application of this Act.	11 12
(2)	Notes included in this Act do not form part of this Act.	13
4	Objects of Act	14
	The objects of this Act are—	15
(a)	to protect the public by ensuring professional engineering services are provided by a professional engineer in a professional and competent way, and	16 17
(b)	to maintain public confidence in the standard of services provided by professional engineers, and	18 19
(c)	to uphold the standards of practice of professional engineers, and	20
(d)	to provide mechanisms to monitor and enforce compliance with this Act.	21
5	Act to bind Crown	22
	This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.	23 24 25

Part 2	Registration of professional engineers	1
Division 1	Preliminary	2
6	Areas of engineering	3
(1)	The following are the <i>areas of engineering</i> —	4
(a)	structural engineering,	5
(b)	civil engineering,	6
(c)	mechanical engineering,	7
(d)	electrical engineering,	8
(e)	fire safety engineering,	9
(f)	another type of engineering prescribed by the regulations.	10
(2)	The board is to publish, on a publicly accessible website approved by the Secretary for the purposes of this section, a list of the areas of engineering for which there is an assessment scheme.	11 12 13
7	Professional engineering services require registration	14
(1)	A person must not carry out professional engineering services in an area of engineering unless—	15 16
(a)	the person is a professional engineer whose registration authorises the person to carry out professional engineering services in that area of engineering, or	17 18
(b)	the person carries out professional engineering services under the direct supervision of a professional engineer whose registration authorises the person to carry out professional engineering services in that area of engineering.	19 20 21
(2)	A person must not falsely represent that the person—	22
(a)	can carry out professional engineering services, or	23
(b)	is registered as a professional engineer in an area of engineering.	24
	Maximum penalty—1,000 penalty units.	25
(3)	Despite any contract or agreement, a person is not entitled to monetary or other consideration for the carrying out of professional engineering services in contravention of this section.	26 27 28
(4)	A person who provided monetary consideration to a person for professional engineering services carried out in contravention of this section is entitled to recover the amount as a debt due in a court of competent jurisdiction.	29 30 31
8	Titles and names	32
	A person must not use a title or name that in its context in which the title or name is used suggests that the person is a professional engineer, unless the person is a professional engineer.	33 34 35
	Maximum penalty—1,000 penalty units.	36
Division 2	Application for registration	37
9	Applying for registration	38
(1)	An individual may apply to the board for registration as—	39
(a)	a practising professional engineer for one or more areas of engineering, or	40
(b)	a non-practising professional engineer.	41

(2)	The application must—	1
(a)	be in the form approved by the board, and	2
(b)	include or be accompanied by the information or evidence that the board reasonably requires to determine the application.	3 4
(3)	The regulations may require an application to be accompanied by a fee.	5
(4)	The approved form must require the applicant for registration as a practising professional engineer to—	6 7
(a)	provide the applicant’s contact details, and	8
(b)	specify each area of engineering to which the application relates, and	9
(c)	provide evidence of the applicant’s eligibility for registration as a professional engineer in each of those areas.	10 11
10	Eligibility	12
(1)	An applicant is eligible for registration as a professional engineer only if the applicant—	13 14
(a)	has completed an assessment scheme to the satisfaction of the assessment entity for the scheme, or	15 16
(b)	has the qualifications and competencies required for 1 or more areas of engineering, set out in the regulations.	17 18
(2)	An applicant is eligible for registration as a non-practising professional engineer only if the board is satisfied the applicant will not carry out, or be responsible for the carrying out of, professional engineering services while the applicant is registered as a non-practising professional engineer.	19 20 21 22
11	Fitness to practise as professional engineer	23
	In deciding whether an applicant for registration is fit to practise as a professional engineer, the board may have regard to the following—	24 25
(a)	whether the applicant has committed an offence—	26
(i)	against this Act, or	27
(ii)	relating to the practice of engineering, under another law of the State, the Commonwealth, another State or a foreign country,	28 29
(b)	if the applicant has been registered under this Act, or registered to provide professional engineering services, in the Commonwealth, another State, a Territory or a foreign country and the registration was suspended or cancelled—the reason for the suspension or cancellation of that registration,	30 31 32 33
(c)	if the applicant has been registered under this Act—any disciplinary proceedings undertaken against the person under this Act,	34 35
(d)	whether the applicant—	36
(i)	was an undischarged bankrupt or took advantage of the laws in force for the time being relating to bankruptcy during the previous 3 years, or	37 38
(ii)	is or was a director or concerned in the management of a body corporate that is the subject of a winding up order or for which a controller or administrator has been appointed during the previous 3 years,	39 40 41
(e)	any other matter that the board considers relevant to the applicant’s ability to competently practise as a professional engineer.	42 43

Division 3	Determination of application for registration	1
12	Determination of application	2
(1)	The board must consider each application and either grant or refuse to grant the application as soon as practicable after the board receives the application.	3 4
(2)	In determining an application, the board must consider—	5
(a)	if the application relates to registration as a practising professional engineer—	6
(i)	whether the applicant is eligible to be a practising professional engineer, and	7 8
(ii)	whether the applicant is fit to practise as a professional engineer, and	9
(iii)	whether the applicant has the qualifications and competencies to be registered in the areas of engineering to which the application relates, or	10 11
(b)	if the application relates to registration as a non-practising professional engineer—whether the applicant is eligible to be a non-practising professional engineer.	12 13 14
13	Grant of application	15
(1)	If the board grants an application, it must as soon as practicable—	16
(a)	register the applicant as a professional engineer in the register, and	17
(b)	give the applicant a certificate of registration.	18
(2)	If the board imposes conditions on the applicant’s registration, the board must as soon as practicable after granting the application, give the applicant notice of the conditions.	19 20 21
(3)	In deciding the areas of engineering in which an applicant may be registered, the board must have regard to the applicant’s qualifications and competencies in the practice of engineering.	22 23 24
14	Refusal of application	25
(1)	If the board refuses to grant an application, it must as soon as practicable—	26
(a)	give the applicant notice for the refusal, including reasons for the refusal, and	27
(b)	refund the fees that accompanied the application less the amount, if any, prescribed by the regulations for processing the application.	28 29
(2)	The regulations may provide that an application is deemed to be refused if the application is not granted or refused with the time determined in accordance with the regulations.	30 31 32
15	Period of registration	33
(1)	Registration as a professional engineer remains in force for the period, not exceeding 3 years, specified in the certificate of registration (the <i>registration period</i>).	34 35
(2)	Despite subsection (1), registration may be earlier surrendered, suspended or cancelled in accordance with this Act.	36 37
16	Notification of expiry of registration	38
	The board must give a professional engineer notice of the expiry of the engineer’s registration at least 3 months before the end of the registration period.	39 40

Division 4	Renewal and restoration of registration	1
Subdivision 1	Preliminary	2
17	Application of Division	3
	This Division applies in respect of an application for the renewal or restoration of a person's registration.	4 5
18	Continuing registration requirements of practising professional engineers	6
(1)	In this Division, <i>continuing registration requirements</i> means the requirements that, if satisfied, demonstrate that an applicant for renewal or restoration of registration has maintained competency in the practice of engineering in the area of engineering for which the applicant is, or was, registered.	7 8 9 10
(2)	The continuing registration requirements may include requirements about the following for an area of engineering—	11 12
	(a) the nature, extent and period of practice of engineering by the applicant,	13
	(b) the nature and extent of continuing professional development to be undertaken by the applicant,	14 15
	(c) the nature and extent of research, study or teaching, relating to engineering, to be undertaken by the applicant,	16 17
	(d) the nature and extent of administrative work, relating to engineering, to be performed by the applicant.	18 19
(3)	The requirements are satisfied by—	20
	(a) if the applicant is registered with an assessment entity for participation in the continuing registration requirements of an assessment scheme conducted by the entity—complying with the continuing registration requirements of the assessment scheme, or	21 22 23 24
	(b) otherwise—complying with the board's continuing registration requirements for each area of engineering for which the applicant is registered.	25 26
(4)	An assessment entity must—	27
	(a) keep published the continuing registration requirements of each of the entity's assessment schemes on the entity's website, and	28 29
	(b) ensure the continuing registration requirements of each of the entity's assessment schemes are readily available to any professional engineer on request.	30 31 32
(5)	The board must—	33
	(a) publish the board's continuing registration requirements on the board's website or on another publicly accessible website approved by the Secretary for the purposes of this section, and	34 35 36
	(b) cause the requirements to be available for inspection, without charge, during normal business hours at the board's office, and	37 38
	(c) if asked by a person, give the person a copy of the requirements.	39
(6)	The regulations may require a prescribed fee to be paid before a person is given a copy of the continuing registration requirements under subsection (5)(c).	40 41

Subdivision 2	Renewal and restoration of registration	1
19	Application for renewal or restoration	2
	Divisions 1–3 apply in respect of an application for the renewal or restoration of a person’s registration in the same way as they apply to an application for registration, except as provided by this Division.	3 4 5
20	Applying for renewal	6
(1)	An application for the renewal of registration may be made at least 1 month, but not more than 3 months, before the last day of the registration period (the <i>expiry day</i>).	7 8
(2)	Despite subsection (1), the board may accept an application for renewal of registration made less than 1 month before the expiry day, but not after the expiry day, if the board is satisfied it is reasonable in all the circumstances to accept the application.	9 10 11 12
21	Applying for restoration	13
(1)	Application for the restoration of a person’s registration may be made not more than 2 months after the end of the registration period.	14 15
(2)	Despite subsection (1), the board may accept an application for restoration of registration made more than 2 months after its expiry if the board is satisfied it is reasonable in all the circumstances to accept the application.	16 17 18
(3)	If the board refuses to accept an application for restoration of registration under this section, the person may apply for registration under Division 2.	19 20
22	Registration in force while application for renewal is considered	21
(1)	If an application is made under section 20(1), or the board accepts an application under section 20(2), the applicant’s registration is taken to continue in force until—	22 23
(a)	if the board grants the renewal of registration—the day a new certificate of registration is given to the applicant, or	24 25
(b)	if the board refuses to grant the renewal of registration—the day specified in the notice of the board’s decision to refuse to renew the registration, or	26 27
(c)	if the application is not granted within the time required by section 14(2)—the day that the application is taken to have been refused.	28 29
(2)	Subsection (1) does not apply if the registration is earlier suspended or cancelled under this Act.	30 31
23	Board to consider continuing registration requirements when determining application under this Division	32 33
	In addition to the matters required to be considered under section 12(2), when determining an application under this Division, the board must consider to the extent, if any, to which the applicant has satisfied the continuing registration requirements.	34 35 36
24	Refusal to grant application for renewal or restoration	37
	If the board refuses to grant or accept an application under this Division, it must as soon as practicable—	38 39
(a)	give the applicant notice of the decision, including the reason for the decision, and	40 41
(b)	in relation to an application for renewal of registration—specify the day, not before the expiry day and not earlier than 7 days after the notice is given, on which the applicant’s registration expires, and	42 43 44

(c)	refund any application fee that accompanied the application.	1
Division 5	Conditions of registration	2
25	Conditions of registration	3
(1)	The registration of a professional engineer is subject to the following conditions—	4
(a)	the conditions prescribed by the regulations,	5
(b)	the conditions imposed by the board,	6
(2)	The board may—	7
(a)	impose conditions at the time of the grant of the registration, or	8
(b)	add or amend conditions on the registration of a professional engineer during the registration period.	9 10
26	Adding or amending conditions on registration	11
(1)	If the board adds or amends a condition of a professional engineer’s registration after granting the registration, the board must give the engineer notice—	12 13
(a)	setting out the additional or amended condition, and the reason for the addition or amendment of the condition, and	14 15
(b)	requiring the professional engineer to return the engineer’s certificate of registration to the board within 21 days after receiving the notice.	16 17
(2)	A condition added or amended under this section has effect when notice of the condition is given to the professional engineer and does not depend on the condition being noted on the engineer’s certificate of registration.	18 19 20
(3)	It is a condition of the registration of a professional engineer that the engineer comply with a requirement imposed under subsection (1)(b).	21 22
Division 6	Disclosure by professional engineers	23
27	Professional engineer to notify board of particular matters	24
	A professional engineer must, within 21 days after changing the engineer’s name or contact details, advise the board about the change unless the engineer has a reasonable excuse.	25 26 27
	Maximum penalty—50 penalty units.	28
28	Professional engineer to notify board of disciplinary action by other bodies	29
(1)	A professional engineer must, by notice in writing, advise the board about any disciplinary action taken against the engineer in another jurisdiction in relation to the engineer’s practice as an engineer, within 21 days after the event, unless the engineer has a reasonable excuse.	30 31 32 33
	Maximum penalty—50 penalty units.	34
(2)	For subsection (1) it is immaterial whether or not the disciplinary action happened under a law of the other jurisdiction, or under the rules of an association of professional engineers.	35 36 37
Division 7	Miscellaneous	38
29	Inquiries about fitness to practise as a professional engineer	39
(1)	This Division applies to the following applicants—	40
(a)	an applicant for registration as a practising professional engineer,	41

(b)	an applicant for renewal of registration as a practising professional engineer,	1
(c)	an applicant for the restoration of registration as a practising professional engineer.	2 3
(2)	The board may make inquiries about the applicant to help in deciding whether the person is, or continues to be, fit to practise as a professional engineer.	4 5
30	Report about applicant's criminal history	6
(1)	The board may ask an applicant to authorise the disclosure of the applicant's criminal history.	7 8
(2)	The board may refuse an applicant's application if the applicant does not authorise the disclosure of the applicant's criminal history.	9 10
(3)	If an applicant authorises the disclosure of the applicant's criminal history, the board may request, and the Commissioner of Police may provide, a written report about the criminal history of the applicant.	11 12 13
(4)	A report referred to in subsection (3) may only be used for the purposes of this Act and must be destroyed as soon as practicable after it is no longer needed for those purposes.	14 15 16
31	Information about applicant from assessment entity	17
(1)	The board may ask an assessment entity for information about an applicant relating to the practice of professional engineering.	18 19
(2)	If asked by the board, the assessment entity must give the board the information mentioned in subsection (1) to which the entity has access.	20 21
(3)	An assessment entity that, honestly and on reasonable grounds, gives information to the board under subsection (2) is not subject to any liability for giving the information and no action, claim or demand may be taken or made of or against the entity for giving the information.	22 23 24 25
(4)	Information obtained under this section may only be used for the purposes of this Act.	26 27
32	Surrender of registration	28
(1)	A professional engineer may, by notice given to the board, surrender the engineer's registration.	29 30
(2)	The registration surrendered under this section ends on the later of the following—	31
(a)	the day that is 7 days after the day on which the notice is given,	32
(b)	a day specified in the notice for the surrender.	33
33	Form of certificate of registration	34
(1)	A certificate of registration given under this Part must be in the approved form.	35
(2)	The approved form must provide for the inclusion of—	36
(a)	the professional engineer's name, and	37
(b)	each area of engineering for which the engineer is registered, and	38
(c)	the period of registration, and	39
(d)	whether the engineer is a practising professional engineer or a non-practising professional engineer.	40 41

34 Refund of fees—withdrawal of application

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| (1) This section applies if an applicant withdraws an application made under this Part before the application is decided. | 2
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| (2) The board must, as soon as practicable after the application is withdrawn, refund the fees that accompanied the application less a reasonable amount, if any, prescribed under a regulation for processing the application. | 4
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6 |

Part 3	Board of Professional Engineers	1
Division 1	Constitution and functions of board	2
35	Constitution of board	3
(1)	There is constituted by this Act a body corporate with the name of the Board of Professional Engineers.	4 5
(2)	In performing its functions, the board is to act impartially and in the public interest.	6
36	Membership of board	7
(1)	The board is to consist of the members determined in accordance with the regulations.	8 9
(2)	The regulations must require that some members of the board are to be professional engineers.	10 11
(3)	The constitution and procedures of the board are set out in Schedule 2.	12
(4)	Without limiting subsection (1), the regulations may make provision for or with respect to the following—	13 14
(a)	the nomination of persons to be members of the board,	15
(b)	qualifications required for a member of the board,	16
(c)	the number of members of the board.	17
37	Functions of board	18
	The board has the following functions—	19
(a)	the registration of professional engineers,	20
(b)	the investigation of complaints against professional engineers,	21
(c)	to conduct or authorise investigations about conduct of professional engineers in providing professional engineering services,	22 23
(d)	the approval of assessment schemes,	24
(e)	any other functions imposed by this Act or the regulations or by or under another Act or law.	25 26
38	Ministerial direction	27
(1)	The Minister may give the board a written direction about the performance of the board's functions or exercise of its powers if satisfied it is necessary to give the direction in the public interest.	28 29 30
(2)	Without limiting subsection (1), the direction may be to—	31
(a)	give reports and information, or	32
(b)	apply to the board a policy, standard or other instrument applying to a public sector agency.	33 34
(3)	The direction must not be about the registration of a person.	35
(4)	However, before giving the direction the Minister must consult with the board.	36
(5)	The Minister must publish a copy of the direction in the Gazette within 21 days after the direction is given.	37 38

Division 2	Register of professional engineers	1
39	Keeping the register	2
(1)	The board must keep a register of persons who are, or have been, professional engineers (the <i>register</i>).	3 4
(2)	The register may be kept in the way the board considers appropriate, including, for example, in an electronic form.	5 6
(3)	The register must contain all the following particulars for each person—	7
(a)	the person’s name and contact details,	8
(b)	the areas of engineering in which the person is registered,	9
(c)	details of the person’s eligibility for registration as a professional engineer,	10
(d)	particulars of the conditions, if any, applying to the person’s registration,	11
(e)	matter required by the regulations to be included in the register.	12
40	Inspection of register	13
(1)	The board must—	14
(a)	keep the register open for inspection, free of charge, at the board’s office by members of the public during ordinary office hours, and	15 16
(b)	give a person a copy of the register, or a part of it, on payment of the fee prescribed by the regulations.	17 18
(2)	The board may make the register available for inspection on its website.	19

Part 4	Code of practice	1
41	Board to make code of practice	2
(1)	The board must, within 9 months after the commencement of this Part, make a code of practice to provide guidance to professional engineers as to appropriate professional conduct or practice.	3 4 5
(2)	In developing or amending a code of practice, the board must consult with—	6
(a)	professional associations in the State that the board considers represent the interests of professional engineers, and	7 8
(b)	universities that—	9
(i)	are established in the State, and	10
(ii)	are engaged in the education of students in the profession of engineering, and	11 12
(c)	any other person or entity the Minister directs the board to consult with.	13
(3)	A code of practice, or an amendment of a code of practice, has no effect until it is approved by a regulation.	14 15
(4)	The board may make a code of practice by adopting another entity’s code of practice with or without changes.	16 17
(5)	The board’s code of practice is a statutory rule within the meaning of the <i>Subordinate Legislation Act 1989</i> .	18 19
42	Tabling of code	20
(1)	This section applies if a code of practice, or amendment of a code of practice, has been approved by the regulations.	21 22
(2)	The Minister must, within 14 sitting days after the regulation is notified, table a copy of the code, amendment or the amended code, in the Legislative Assembly.	23 24
(3)	A failure to comply with subsection (2) does not invalidate or otherwise affect the code or the regulation.	25 26
43	Inspection of code	27
(1)	The board must—	28
(a)	keep copies of the code of practice, as in force from time to time, available for inspection, free of charge, at the board’s office by members of the public during ordinary office hours, and	29 30 31
(b)	give a person a copy of the code, or a part of it, on payment of the fee prescribed under a regulation.	32 33
(2)	The board may make the code of practice available for inspection on its website.	34
44	Notice of approval or amendment of code	35
	The board must promptly notify professional engineers of the approval of a code of practice or an amendment of the code.	36 37
45	Use of code of practice in disciplinary proceeding	38
(1)	An approved code of practice is admissible as evidence in a disciplinary proceeding brought by the board against a professional engineer.	39 40
(2)	The code may only be used to provide evidence, in the disciplinary proceeding, of appropriate professional conduct or practice for a professional engineer.	41 42

Part 5	Complaints and investigations	1
Division 1	Preliminary	2
46	Definitions	3
	In this Part—	4
	<i>approved</i> , in relation to a form, means approved by the board.	5
47	Purposes for which functions under this Part and Part 6 may be exercised	6
	The board or an authorised officer may exercise the functions conferred by this Part or Part 6 only for the following purposes—	7
		8
	(a) investigating, monitoring and enforcing compliance with the requirements imposed by or under this Act,	9
		10
	(b) obtaining information or records for purposes connected with the administration of this Act,	11
		12
	(c) enforcing, administering or executing this Act.	13
48	Application of Part to former professional engineers	14
	(1) Action may be taken under this Part in relation to a person who was a professional engineer at the time the conduct of the person that is relevant for this Part happened even though the person is no longer a professional engineer.	15
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		17
	(2) For the purpose of taking action under this Part, the person mentioned in subsection (1) is taken to be a professional engineer.	18
		19
	(3) This section does not authorise action being taken against a person as a professional engineer if the person has not been a professional engineer for more than 5 years.	20
		21
Division 2	Complaints	22
49	Complaints about conduct	23
	(1) A person who is aggrieved by a professional engineer’s conduct in carrying out professional engineering services may make a complaint about the conduct to the board.	24
		25
		26
	(2) A complaint must be in the approved form.	27
	(3) The Chairperson must keep available for inspection, at the board’s office by members of the public, information about—	28
		29
	(a) the type of conduct the board considers may give rise to a complaint, and	30
	(b) how a person may make a complaint.	31
50	Board may require further information or statutory declaration	32
	(1) The board may, by notice in writing, ask a complainant to provide further information about the complaint within the reasonable time stated in the notice.	33
		34
	(2) The board may require a complainant to verify the complaint or further information by statutory declaration.	35
		36
51	Rejection of complaint	37
	The board may decide to reject a complaint if—	38
	(a) the board reasonably considers the complaint is frivolous, trivial or vexatious,	39
	or	40

(b)	the board reasonably considers the complaint is misconceived or lacking in substance, or	1 2
(c)	the complainant fails to provide further information about the complaint that is requested by the board, or	3 4
(d)	the complainant refuses to verify the complaint, or further information about the complaint, by statutory declaration.	5 6
52	Withdrawal of complaint	7
(1)	If a complainant withdraws a complaint, the board need not take any further action about the complaint.	8 9
(2)	However, the withdrawal does not prevent the board—	10
(a)	investigating, or continuing to investigate, the matter of the complaint, or	11
(b)	authorising an authorised officer to investigate, or continue to investigate, the matter of the complaint.	12 13
(3)	In deciding whether to take action under subsection (2), the board must have regard to the main objects of this Act and the grounds for suspending or cancelling the registration of a professional engineer.	14 15 16
Division 3	Investigations	17
53	Investigations of professional engineer's conduct	18
(1)	The board may conduct an investigation of a professional engineer's conduct or authorise, in writing, an authorised officer to conduct the investigation if—	19 20
(a)	a complaint is made about the professional engineer under Division 2, or	21
(b)	the board believes that there may be grounds for suspending or cancelling the professional engineer's registration, or	22 23
(c)	the board suspects that the professional engineer has committed an offence against this Act or the regulations.	24 25
(2)	The board may, whether or not the board has commenced an investigation into the conduct of a professional engineer, request that the professional engineer show cause why the board should not conduct an investigation under this Division.	26 27 28
54	Investigation of compliance with Act	29
(1)	If the board reasonably suspects a person (other than a professional engineer) has committed an offence against this Act, the board may—	30 31
(a)	investigate the suspected offence, or	32
(b)	authorise, in writing, an authorised officer to conduct the investigation.	33
(2)	To help the board decide whether to act under subsection (1), the board may give the person a notice inviting the person to make a submission to the board about the matter the subject of the suspected offence within the reasonable time stated in the notice.	34 35 36
55	Timing of investigation	37
	An investigation under this Division must be conducted as quickly as possible having regard to the nature of the matter being investigated.	38 39
56	Notice of investigation	40
(1)	As soon as practicable after deciding to conduct, or authorising an authorised officer to conduct, an investigation in relation to a person, the board must give the person notice of the investigation.	41 42 43

(2)	The notice must state each of the following—	1
(a)	whether the investigation is being conducted by the board or an authorised officer,	2 3
(b)	if an authorised officer is conducting the investigation—the authorised officer’s name,	4 5
(c)	if the investigation relates to a complaint—the nature of the complaint,	6
(d)	if the board or an authorised officer is conducting the investigation on the board’s own initiative—the grounds that are the basis for the investigation,	7 8
(e)	that the person may make, during the course of the investigation, a submission to the board or authorised officer about the complaint or other grounds for the investigation, and how a submission may be made.	9 10 11
(3)	However, the board need not give the person the notice if the board reasonably believes that giving the notice may—	12 13
(a)	seriously prejudice the investigation, or	14
(b)	place the complainant or another person at risk of harassment or intimidation.	15
(4)	A submission under subsection (2)(e) must be made to—	16
(a)	if an authorised officer is conducting the investigation—the authorised officer, or	17 18
(b)	otherwise—the board.	19
57	Board may engage persons to help investigation	20
(1)	The board may engage a person to help the board or authorised officer in conducting an investigation if the board is satisfied the person is sufficiently qualified or experienced to help the board or authorised officer about the matter the subject of the investigation.	21 22 23 24
(2)	Without limiting subsection (1), the board may engage the person to give the board or authorised officer a written report about the matter the subject of the investigation.	25 26
Division 4	Reporting on investigations	27
58	Board’s report about investigation	28
(1)	The board must, as soon as practicable after completing an investigation, prepare a written report about the investigation.	29 30
(2)	The report must include the board’s findings about the investigation, including, if the investigation was the result of a complaint, the board’s findings about the complaint.	31 32
59	Report about investigation being conducted	33
	An authorised officer must, if asked by the board, give the board an interim report about the conduct of an investigation being conducted by the authorised officer.	34 35
60	Authorised officer’s report about investigation	36
(1)	An authorised officer must, as soon as practicable after the authorised officer considers an investigation being conducted by the authorised officer is completed, give the board a written report about the investigation.	37 38 39
(2)	If the investigation was the result of a complaint, the report must include the authorised officer’s findings about the complaint.	40 41

- (3) If the board considers the report does not include enough information to enable the board to make a decision, the board may, by notice, ask the authorised officer to give the board a further report about the investigation. 1
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- (4) The authorised officer must, as soon as practicable, comply with a request under subsection (3). 4
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61 Board may report to Minister 6

The board may, at any time, give the Minister a report about an investigation conducted by the board or an authorised officer. 7
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Division 5 Action following investigation—professional engineer 9

62 Board's decision on investigation about professional engineer 10

- (1) This section applies if the board, under this Division— 11
- (a) prepares a report about a professional engineer, or 12
 - (b) receives a report about a professional engineer and does not request a further report about the engineer, or 13
14
 - (c) receives a further report about a professional engineer. 15
- (2) As soon as practicable after preparing or receiving the report, the board may decide to take no further action about the matter the subject of the investigation or may decide that there are grounds for taking any one or more of the following disciplinary actions against the professional engineer— 16
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- (a) enter into an undertaking agreed with the engineer about a matter relating to the engineer carrying out professional engineering services, including, for example, to submit to an audit of the engineer's practice of engineering, 20
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 - (b) caution or reprimand the engineer, 23
 - (c) impose a condition, agreed to by the engineer, on the engineer's registration, 24
 - (d) suspend the registration of the engineer (if a ground referred to in section 64 exists), 25
26
 - (e) cancel the registration of the engineer (if a ground referred to in section 64 exists). 27
28
- (3) If the professional engineer does not comply with an undertaking entered into under this section, the board may decide to take another action under this section. 29
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- (4) In exercising a power under this section, the board must have regard to the main objects of this Act and grounds for suspending or cancelling a professional engineer's registration. 31
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- (5) The board may, in addition to any action under this section, start proceedings to prosecute the professional engineer for an offence. 34
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- (6) A decision to take action under this section does not prevent the board taking the matter the subject of the investigation into consideration at a later time as part of a pattern of conduct or practice that may result in starting a disciplinary proceeding against the professional engineer. 36
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63 Notice to show cause 40

- (1) This section applies if the board is of the opinion that there may be grounds for taking disciplinary action under this Division against a professional engineer. 41
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- (2) The board may serve a written notice on the professional engineer, inviting the engineer to show cause why the professional engineer should not be dealt with under this Division. 1
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- (3) The notice must state the grounds on which the professional engineer is required to show cause and must specify the period, being at least 21 days, during which it must be done. 4
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- (4) A professional engineer on whom a notice to show cause has been served may, within the period specified in the notice, make submissions to the board, orally or in writing, and provide evidence with respect to the matters to which the notice relates. 7
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- (5) The board may conduct any inquiry or make any investigation with respect to the matters to which the notice relates and the submissions are made, if any, and the evidence adduced, if any, by or on behalf of the professional engineer with respect to those matters that the board thinks fit. 10
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- (6) The board must, before determining whether or not to take disciplinary action under this Division against a professional engineer, take into consideration any submission made by the professional engineer in accordance with this section. 14
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- (7) However, the board may take immediate disciplinary action without taking any steps under this section if the board is of the opinion that it is in the public interest to take immediate action. 17
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64 Grounds for suspension or cancellation of professional engineer's registration 20

The board may suspend or cancel a professional engineer's registration in the following circumstances only— 21
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- (a) the professional engineer has behaved in a way that constitutes unsatisfactory professional conduct, 23
24
- (b) the professional engineer has failed to comply with a provision of this Act, 25
- (c) the professional engineer has been convicted of an offence against an Act of the State, the Commonwealth or another State or a Territory related to the practice of engineering, 26
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- (d) the professional engineer has contravened a condition of the engineer's registration, 29
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- (e) the board believes on reasonable grounds the professional engineer was registered because of a materially false or misleading representation or document, 31
32
33
- (f) the professional engineer is affected by bankruptcy action, 34
- (g) the professional engineer is not a fit to practice as a professional engineer under section 11, 35
36
- (h) the professional engineer's registration to practise as a professional engineer under a law applying, or that applied, in the Commonwealth, another State, a Territory or a foreign country has been cancelled under that law for disciplinary reasons, 37
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- (i) the professional engineer's membership of an association of professional engineers, whether in Australia or a foreign country, has been cancelled under the association's rules for disciplinary reasons, 41
42
43
- (j) the professional engineer has contravened a condition of the professional engineer's registration, 44
45
- (k) the regulations authorise the board to cancel the professional engineer's registration. 46
47

65	Procedure for suspension or cancellation of registration	1
(1)	If the board decides to suspend or cancel a professional engineer's registration, the board must give the professional engineer a written notice of the decision.	2 3
(2)	The decision takes effect on—	4
(a)	the day the notice is given, or	5
(b)	if a later day is specified in the notice—the specified day.	6
(3)	If the board suspends a professional engineer's registration—	7
(a)	the registration is not in force while suspended, and	8
(b)	the suspension does not affect the end of the registration period, and	9
(c)	the suspension must not extend past the end of the registration period.	10
66	Notice of result of investigation about professional engineer	11
(1)	As soon as practicable after making a decision under this Division about a professional engineer, the board must give notice of the decision to—	12 13
(a)	the professional engineer (unless notice has already been given under section 65), and	14 15
(b)	if the investigation was the result of a complaint—the complainant.	16
(2)	If the board decides to caution or reprimand the professional engineer, the board must give the professional engineer notice of the decision.	17 18
(3)	If the board decides to take no further action about the matter the subject of an investigation started because of a complaint, the board must give the complainant notice of the decision.	19 20 21
67	Publishing certain decisions about professional engineer after investigation	22
(1)	This section applies if the board decides under this Division—	23
(a)	to caution or reprimand a professional engineer, or	24
(b)	to impose a condition on a professional engineer's registration.	25
(2)	The board may notify the decision, and reasons for the decision, on the board's website.	26 27
(3)	The board must not act under subsection (2) until the particulars of the decision are included in the register.	28 29
Division 6	Action following investigation—person other than professional engineer	30 31
68	Board's decision about other investigations	32
(1)	This section applies if the board, under this Division—	33
(a)	prepares a report about a person other than a professional engineer, or	34
(b)	receives a report about a person other than a professional engineer and does not request a further report, or	35 36
(c)	receives a further report about a person other than a professional engineer.	37
(2)	As soon as practicable after preparing or receiving the report, the board must decide to do one or more of the following—	38 39
(a)	start proceedings to prosecute the person for an offence,	40

(b)	enter into an undertaking agreed with the person about the person’s conduct, including, for example, to apply for registration or to only carry out professional engineering services under the direct supervision of a practising professional engineer,	1 2 3 4
(c)	caution or reprimand the person,	5
(d)	take no further action about the matter the subject of the investigation.	6
(3)	If the person does not comply with an undertaking under this section the board may decide to take another action under this section.	7 8
(4)	As soon as practicable after making the decision, the board must give notice of the decision to the person.	9 10
(5)	If the board decides to caution or reprimand the person, the board must give the person notice of the decision.	11 12
69	Other investigations—recording decision if person becomes professional engineer	13
(1)	This section applies if—	14
(a)	the board makes a decision about a person under this Division, and	15
(b)	the person later becomes a professional engineer.	16
(2)	The board may include in the register particulars of its decision with other particulars relevant to the person’s registration.	17 18
70	Publishing information if person other than professional engineer found guilty of offence	19 20
(1)	This section applies if a person other than a professional engineer is found guilty of an offence against Division 1 of Part 2, whether or not a conviction is recorded.	21 22
(2)	The board may, during the relevant period, publish the information about the offence on the board’s website.	23 24
(3)	For subsection (2), only the following information may be published—	25
(a)	the person’s full name and any other identifying particulars,	26
(b)	the person’s business address or former business address,	27
(c)	particulars of the offence committed by the person,	28
(d)	particulars prescribed by the regulations.	29
(4)	If the finding of guilt is quashed on appeal, the board must remove any reference to the offence from the website.	30 31
(5)	In this section—	32
	<i>relevant period</i> means the period starting on the date the finding of guilt is made and ending 5 years after that date.	33 34

Part 6	Authorised officers	1
Division 1	Appointment of authorised officers	2
71	Appointment of authorised officers	3
	The board may appoint any of the following persons as an authorised officer for the purposes of this Act—	4
		5
	(a) a person who is an investigator within the meaning of the <i>Fair Trading Act 1987</i> (an <i>investigator</i>),	6
		7
	(b) a person belonging to a class of persons prescribed by the regulations.	8
72	Scope of authority	9
(1)	An authorisation of a person as an authorised officer may be given generally, or subject to conditions, limitations or restrictions or only for limited purposes.	10
		11
(2)	If an authorisation is given subject to conditions, limitations or restrictions or only for limited purposes, nothing in this Act authorises or requires the authorised officer to act in contravention of the conditions, limitations or restrictions or for other purposes.	12
		13
		14
		15
73	Identification	16
(1)	Every authorised officer is to be provided with an identification card as an authorised officer by the board.	17
		18
(2)	An identification card must—	19
	(a) contain a recent photograph of the authorised officer, and	20
	(b) contain a copy of the authorised officer’s signature, and	21
	(c) identify the person as an authorised officer for the purposes of this Act, and	22
	(d) state an expiry date for the card.	23
(3)	The board is not required to issue an identification card to an investigator who is appointed as an authorised officer.	24
		25
(4)	If the board does not issue an identification card to an investigator, the person’s certificate of identification as an investigator is taken to be the person’s identification card as an authorised officer.	26
		27
		28
(5)	In the course of exercising the functions of an authorised officer under this Act, the officer must, if requested to do so by any person affected by the exercise of a function, produce to the person the authorised officer’s identification card as an authorised officer.	29
		30
		31
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Division 2	Information gathering powers of authorised officers	33
74	Exercise in conjunction with other powers	34
	A power conferred by this Division may be exercised whether or not a power of entry under Division 3 is being exercised.	35
		36
75	Powers of authorised officers to require information and records	37
(1)	An authorised officer may, by written notice given to a person, direct the person to furnish to the officer the information or records (or both) that the authorised officer may require for an authorised purpose.	38
		39
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(2)	A notice under this Division must specify the manner in which information or records are required to be furnished and a reasonable time by which the information or records are required to be furnished.	1 2 3
(3)	A notice under this Division may only require a person to furnish existing records that are in the person's possession or that are within the person's power to obtain lawfully.	4 5 6
(4)	The person to whom any record is furnished under this Division may take copies of it.	7
(5)	If any record directed to be furnished under this Division is in electronic, mechanical or other form, the record must be furnished in written form, unless the notice otherwise provides.	8 9 10
76	Power of authorised officers to require answers	11
(1)	An authorised officer may direct a person whom the authorised officer suspects on reasonable grounds to have knowledge of matters with respect to which information is reasonably required for an authorised purpose to answer questions with respect to those matters.	12 13 14 15
(2)	An authorised officer may, by written notice, direct a person to attend at a specified place and time to answer questions under this section if attendance at that place is reasonably required in order that the questions can be properly put and answered.	16 17 18
(3)	The place and time at which a person may be directed to attend under subsection (2) is to be a place and time nominated by the authorised officer that is reasonable in the circumstances.	19 20 21
77	Recording of evidence	22
(1)	An authorised officer may cause any questions and answers to questions given under this Division to be recorded if the officer has informed the person who is to be questioned that the record is to be made.	23 24 25
(2)	A record may be made using sound recording apparatus or audio visual apparatus, or any other method determined by the authorised officer.	26 27
(3)	A copy of a record must be provided by the authorised officer to the person who is questioned as soon as practicable after it is made.	28 29
(4)	A record may be made under this section despite the provisions of any other law.	30
Division 3	Entry to premises by authorised officers	31
78	Powers of authorised officers to enter premises	32
(1)	An authorised officer may enter any premises at any reasonable hour in the daytime or at any hour during which business is in progress or is usually carried on at the premises.	33 34 35
(2)	A power to enter premises conferred by this Act authorises entry by foot, vehicle, vessel or aircraft or by any other means.	36 37
(3)	Entry to any premises may be effected with or without the authority of a search warrant.	38 39
(4)	When exercising a power of entry under this Part, an authorised officer may be accompanied by any assistants that the authorised officer considers necessary.	40 41

79	Entry into residential premises only with permission or warrant	1
	This Division does not empower an authorised officer to enter any part of premises used only for residential purposes without the permission of the occupier or the authority of a search warrant.	2 3 4
80	Search warrants	5
(1)	An authorised officer may apply to an issuing officer for the issue of a search warrant if the authorised officer believes on reasonable grounds that—	6 7
(a)	a requirement imposed by or under this Act is being or has been contravened at any premises, or	8 9
(b)	there is, in or on any premises, a matter or thing that is connected with an offence under this Act or the regulations.	10 11
(2)	An issuing officer to whom an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an authorised officer named in the warrant—	12 13 14
(a)	to enter the premises, and	15
(b)	to exercise any function of an authorised officer under this Part.	16
(3)	Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> applies to a search warrant issued under this section.	17 18
(4)	Without limiting the generality of section 71 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> , a police officer—	19 20
(a)	may accompany an authorised officer executing a search warrant issued under this section, and	21 22
(b)	may take all reasonable steps to assist the authorised officer in the exercise of the officer’s functions under this section.	23 24
(5)	In this section—	25
	issuing officer means an authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	26 27
81	Requiring assistance	28
(1)	An authorised officer may direct the owner or occupier of premises, or any person in or on premises (other than a public place), to provide any reasonable assistance that the authorised officer specifies for the purposes of exercising the authorised officer’s functions under this Division with respect to those premises.	29 30 31 32
(2)	The direction may be given orally to the person or by written notice served on the person.	33 34
82	Powers that may be exercised on premises	35
(1)	An authorised officer may, at any premises lawfully entered, do anything that in the opinion of the authorised officer is necessary to be done for an authorised purpose, including (but not limited to) the things specified in subsection (2).	36 37 38
(2)	An authorised officer may do any or all of the following—	39
(a)	examine and inspect any thing,	40
(b)	take and remove samples of a thing,	41
(c)	make any examinations, inquiries, measurements or tests that the authorised officer considers necessary,	42 43

- (d) take any photographs or other recordings that the authorised officer considers necessary, 1
2
 - (e) direct a person to produce records for inspection, 3
 - (f) examine and inspect any records, 4
 - (g) copy any records, 5
 - (h) seize any thing that the authorised officer has reasonable grounds for believing is connected with an offence against this Act, 6
7
 - (i) move any seized thing from the place where it is seized or leave it at the place where it is seized and take reasonable action to restrict access to the thing, 8
9
 - (j) direct the occupier of the premises where a thing is seized to retain it at those premises or at another place under the control of the occupier, 10
11
 - (k) do anything else authorised by or under this Act. 12
- (3) The power to examine and inspect any thing includes a power to use reasonable force to break open or otherwise access anything, including a floor or wall containing the thing. 13
14
15
- (4) The power to seize any thing connected with an offence includes a power to seize— 16
- (a) a thing with respect to which the offence has been committed, and 17
 - (b) a thing that will afford evidence of the commission of the offence, and 18
 - (c) a thing that was used for the purpose of committing the offence. 19
- (5) The power to do a thing under this section includes a power to arrange for that thing to be done. 20
21
- (6) A power to do something under this section with respect to a thing may be exercised without the consent of the owner of the thing. 22
23
- (7) In this section, a reference to an offence includes a reference to an offence that there are reasonable grounds for believing has been committed. 24
25

Division 4 Miscellaneous 26

83 Taking possession of records to be used as evidence 27

- (1) If an authorised officer takes possession of any records under this Part for the purpose of obtaining evidence or protecting evidence from destruction, they may be retained by the Secretary until the completion of any proceedings (including proceedings on appeal) in which they may be evidence. 28
29
30
31
- (2) The person from whom the records are taken must be provided, within a reasonable time after the records are taken, with a copy of the records certified by an authorised officer as a true copy. 32
33
34
- (3) A copy of records provided under this section is, as evidence, of equal validity to the records of which it is certified to be a copy. 35
36

84 Obstruction of authorised officers 37

A person must not obstruct, hinder or interfere with an authorised officer in the exercise of the authorised officer's functions under this Part. 38
39

Maximum penalty—1,000 penalty units (in the case of a body corporate) or 200 penalty units (in any other case). 40
41

85 Failure to comply with direction

1

A person must not, without reasonable excuse, fail to comply with a direction of an authorised officer made in accordance with this Part.

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3

Maximum penalty—1,000 penalty units (in the case of a body corporate) or 200 penalty units (in any other case).

4

5

Part 7	Assessment entities and schemes	1
Division 1	Applications relating to assessment schemes	2
86	Suitability of assessment schemes for approval	3
	A proposed assessment scheme is, and an assessment scheme continues to be, suitable for approval under this Part if—	4 5
	(a) the scheme adequately provides for the assessment of qualifications and competencies of professional engineers in an area of engineering, and	6 7
	(b) the scheme is consistent with national and international standards for the recognition of professional engineers, and	8 9
	(c) the entity conducting the scheme has adequate procedures for monitoring and improving the assessment process carried out under the scheme, and	10 11
	(d) the fees imposed under the scheme for the assessment of qualifications and competencies are reasonable having regard to the scope of the services being offered, and	12 13 14
	(e) the scheme includes adequate continuing professional development requirements for professional engineers and an effective audit program to ensure continuing registration requirements are met, and	15 16 17
	(f) the entity conducting the scheme has the financial capacity and facilities to conduct assessments of qualifications and competencies, and	18 19
	(g) the entity conducting the scheme has a proven capacity to undertake independent and authoritative assessments in a timely manner, and	20 21
	(h) the scheme meets the requirements, if any, prescribed by the regulations.	22
87	Application for approval	23
(1)	An entity may apply to the board for approval of a proposed assessment scheme for 1 or more areas of engineering, or proposed areas of engineering, to be conducted by the entity.	24 25 26
(2)	The application must—	27
	(a) be in the approved form, and	28
	(b) be supported by enough information to enable the board to decide the application, and	29 30
	(c) be accompanied by—	31
	(i) the proposed assessment scheme, and	32
	(ii) the fee, if any, prescribed by the regulations.	33
88	Application for variation	34
(1)	The assessment entity for an assessment scheme may apply to the board for variation of the assessment scheme.	35 36
(2)	The application must—	37
	(a) be in the approved form, and	38
	(b) be supported by enough information to enable the board to decide the application, and	39 40
	(c) be accompanied by—	41
	(i) the proposed variation of the assessment scheme, and	42
	(ii) the fee, if any, prescribed by the regulations.	43

89	Application for renewal	1
(1)	An entity may apply to the board for renewal of the approval of an assessment scheme conducted by the entity.	2 3
(2)	The application must—	4
(a)	be in the approved form, and	5
(b)	be supported by enough information to enable the board to decide the application, and	6 7
(c)	be accompanied by—	8
(i)	the assessment scheme, and	9
(ii)	the fee, if any, prescribed by the regulations.	10
90	Determination of applications	11
(1)	The board must consider—	12
(a)	for an application for approval—whether the applicant’s proposed assessment scheme is suitable for approval, or	13 14
(b)	for an application for variation—whether the applicant’s assessment scheme as proposed to be varied is suitable for approval, or	15 16
(c)	for an application for renewal—whether the applicant’s assessment scheme continues to be suitable for approval.	17 18
(2)	In its consideration, the board is not restricted to the information contained in the application.	19 20
91	Further information or document to support application	21
(1)	The board may, by notice given to the applicant, require the applicant to give the board, within a reasonable time of at least 14 days stated in the notice, further information or a document the board reasonably requires to make its recommendation on the application.	22 23 24 25
(2)	The board and the applicant may agree on an extension of the time stated in the notice.	26 27
(3)	The applicant is taken to have withdrawn its application if within the following time the applicant does not comply with the requirement—	28 29
(a)	in the time stated in the notice,	30
(b)	if the board and the applicant have agreed on an extension of time—within the agreed time.	31 32
Division 2	Decision of board	33
92	Decision on application	34
(1)	The board must consider the application and decide to either grant, or refuse to grant, the application.	35 36
(2)	The board may grant the application only if the board is satisfied that—	37
(a)	for an application for approval—the proposed assessment scheme is suitable for approval, or	38 39
(b)	for an application for renewal—the assessment scheme continues to be suitable for approval, or	40 41
(c)	for an application for variation—the assessment scheme as proposed to be varied is suitable for approval.	42 43

(3)	The board may, in granting the application, decide to impose conditions on the approval that are reasonable and relevant.	1 2
93	Grant of application	3
	If the board decides to grant the application without conditions, the board must as soon as practicable give the applicant notice of the decision.	4 5
94	Grant of application with conditions	6
(1)	If the board proposes to grant the application with conditions, the board must give the applicant a notice stating the following—	7 8
(a)	the board proposes to grant the application with conditions (the <i>proposed decision</i>),	9 10
(b)	the proposed conditions,	11
(c)	the reasons for the proposed decision,	12
(d)	that the applicant may make, within 28 days of receiving the notice, written representations to the board about the proposed decision.	13 14
(2)	The board must consider all written representations about the proposed decision (the <i>accepted representations</i>) made by the applicant within 28 days of receiving the notice under subsection (1).	15 16 17
(3)	After considering the accepted representations, or if there are no accepted representations, the board must decide to grant the application with, or without, conditions.	18 19 20
(4)	The board may impose any conditions under subsection (3) that are reasonable and relevant.	21 22
(5)	The board must, as soon as practicable after making a decision under subsection (3), give the applicant—	23 24
(a)	for a decision to grant the application without conditions—notice of the decision, or	25 26
(b)	for a decision to grant the application with conditions—notice of the decision and reasons for the decision.	27 28
95	Refusal of application	29
(1)	If the board proposes to refuse to grant the application, the board must give the applicant a notice stating the following—	30 31
(a)	the board proposes to refuse to grant the application (the <i>proposed decision</i>),	32
(b)	the reasons for the proposed decision,	33
(c)	that the applicant may make, within 28 days of receiving the notice, written representations to the board about the proposed decision.	34 35
(2)	The board must consider all written representations about the proposed decision (the <i>accepted representations</i>) made by the applicant within 28 days of receiving the notice under subsection (1).	36 37 38
(3)	After considering the accepted representations, or if there are no accepted representations, the board must decide—	39 40
(a)	to grant the application, with or without conditions, or	41
(b)	to refuse to grant the application.	42
(4)	As soon as practicable after deciding under subsection (3), the board must give the applicant—	43 44

(a)	for a decision to grant the application without conditions—notice of the decision, or	1 2
(b)	for a decision to grant the application with conditions or to refuse to grant the application—notice of the decision and reasons for the decision.	3 4
96	Term of approval	5
(1)	Unless sooner cancelled, suspended or otherwise ended, an approval remains in force for the term decided by the board when granting an application for approval or renewal.	6 7 8
(2)	A term under subsection (1) must not be more than 5 years.	9
(3)	A variation of an approval does not extend the term of the approval.	10
97	Approval continues pending decision about renewal	11
(1)	If an assessment entity applies for the renewal of an approval, the approval is taken to continue in force from the day it would, apart from this subsection, have ended until the day on which any of the following first happens—	12 13 14
(a)	the board renews the approval,	15
(b)	if the board decides to refuse to grant the renewal, the board gives the assessment entity notice of the decision,	16 17
(c)	the assessment entity is taken to have withdrawn the application under section 91(3).	18 19
(2)	If the board renews the approval, the approval is taken to have been renewed from the day it would, apart from subsection (1), have ended.	20 21
(3)	Subsection (1) does not apply if the approval is earlier cancelled or suspended.	22
Division 3	Cancellation, suspension and surrender of approval	23
98	Cancellation and suspension of approval of assessment scheme	24
(1)	Each of the following is a ground for cancelling or suspending the approval of an assessment scheme—	25 26
(a)	the assessment scheme is no longer suitable for approval,	27
(b)	the assessment entity for the scheme has intentionally or recklessly assessed an applicant for registration as having the qualifications and competencies provided for under the scheme and the applicant does not have those qualifications or competencies,	28 29 30 31
(c)	the approval was granted because of a materially false or misleading representation or declaration,	32 33
(d)	the assessment entity for the scheme has contravened a condition of the approval,	34 35
(e)	the assessment entity for the scheme has contravened a provision of this Act.	36
(2)	The board may, on the board’s own initiative or in response to a complaint—	37
(a)	investigate as to whether grounds for the cancellation or suspension of the approval exist, or	38 39
(b)	engage a person to assist the board in investigating whether grounds for the cancellation or suspension of the approval of an assessment scheme exist.	40 41
(3)	The board may, if satisfied that grounds exist for the cancellation or suspension of the approval of an assessment scheme exist, cancel or suspend the approval by notice in writing to the assessment entity.	42 43 44

(4)	Notice of the cancellation or suspension of an approval must—	1
(a)	specify the day on which the suspension or cancellation takes effect, and	2
(b)	in relation to a notice of suspension—specify the day on which the suspension ends.	3 4
(5)	The board must, before cancelling or suspending the approval of an assessment scheme—	5 6
(a)	serve written notice on the assessment entity conducting the assessment scheme—	7 8
(i)	outlining the grounds that exist for the cancellation or suspension of the approval, and	9 10
(ii)	inviting the entity to show cause why the approval should not be cancelled or suspended, and	11 12
(iii)	setting out the period, being at least 21 days, during which it must be done, and	13 14
(b)	take into consideration any representations made by the assessment entity in accordance with this section.	15 16
99	Voluntary surrender of approval	17
(1)	The assessment entity for an assessment scheme may surrender the approval for the scheme by notice given to the board.	18 19
(2)	The surrender of the approval takes effect—	20
(a)	90 days after the day the notice is given to the board, or	21
(b)	if a later day is stated in the notice, on the later day.	22
Division 4	Record of assessment entities	23
100	Record of assessment entities	24
(1)	The board must keep a record of the following—	25
(a)	the name of each assessment entity that conducts an approved assessment scheme,	26 27
(b)	the contact details for the entity,	28
(c)	each of the areas of engineering for which the entity conducts an assessment scheme.	29 30
(2)	The board must—	31
(a)	publish the record on the board’s website, and	32
(b)	keep the record available for inspection, without charge, during normal business hours at the board’s office, and	33 34
(c)	if asked by a person and on payment of the fee, if any, prescribed under a regulation, give the person a copy of all or part of the record.	35 36

Part 8	Miscellaneous	1
101	Regulations may prescribe decisions that are administratively reviewable by Civil and Administrative Tribunal	2
		3
(1)	The regulations may provide for applications to be made to the Civil and Administrative Tribunal for the administrative review under the <i>Administrative Decisions Review Act 1997</i> of decisions made under this Act or the regulations of a kind prescribed by the regulations.	4
		5
		6
		7
(2)	The Minister is not to recommend the making of a regulation containing provisions for the purposes of subsection (1) unless the Minister certifies that the Minister administering the <i>Civil and Administrative Tribunal Act 2013</i> has agreed to the provisions.	8
		9
		10
		11
102	Warning notices	12
(1)	The board may authorise publication of a notice (a <i>warning notice</i>) warning persons of particular risks involved in dealing with—	13
		14
(a)	a specified professional engineer, former professional engineer, assessment entity or former assessment entity, or	15
		16
(b)	any other person that the board reasonably believes may have breached this Act or the regulations.	17
		18
(2)	The board may authorise publication of a warning notice in any one or more of the following ways—	19
		20
(a)	to any person making inquiries to the board about the person concerned,	21
(b)	by advertisement by the use of any medium,	22
(c)	to any media representatives.	23
(3)	Publication of a warning notice may be authorised whether or not a complaint has been made.	24
		25
(4)	The board must conduct an investigation before authorising the publication of a warning notice.	26
		27
(5)	Before authorising publication of a warning notice, the board must give the person concerned an opportunity for a period of not less than 2 business days to make representations to the board about publication of the warning notice, unless—	28
		29
		30
(a)	the board, after making reasonable efforts to do so, is not able to contact the person promptly and advise the person of that opportunity, or	31
		32
(b)	the person refuses to make any representations.	33
(6)	However, no opportunity to make representations is required to be given if, in the opinion of the board, there is an immediate risk to the public.	34
		35
(7)	No liability is incurred by a person for publishing in good faith—	36
		37
(a)	a warning notice under this section, or	37
		38
(b)	a fair report or summary of a warning notice.	38
		39
103	Personal liability	39
(1)	A matter or thing done or omitted to be done by an authorised officer or a person acting under the direction of an authorised officer or member of the board does not, if the matter or thing was done or omitted to be done in good faith for the purpose of exercising a function under this Act, subject the authorised officer, member of the board or person so acting personally to any action, liability, claim or demand.	40
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		43
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(2)	However, any such liability attaches instead to the Crown.	1
104	Regulations	2
(1)	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	3 4 5 6
(2)	Without limiting subsection (1), the regulations may make provision for or with respect to the following—	7 8
(a)	fees payable under the Act,	9
(b)	in relation to qualification or competency in an area of engineering, the following—	10 11
(i)	the practice of engineering in the area of engineering,	12
(ii)	the nature, extent and period of practice of engineering by the applicant,	13
(iii)	the nature and extent of any research, study or teaching, relating to engineering, undertaken by the applicant,	14 15
(iv)	the nature and extent of any administrative work, relating to engineering, performed by the applicant,	16 17
(c)	assessment schemes including, without limitation, the following—	18
(i)	the areas of engineering in respect of which assessment schemes may be approved,	19 20
(ii)	the matters required to be considered by the board before approving an application for the approval of an assessment scheme,	21 22
(iii)	the approval of assessment schemes,	23
(iv)	matters required to be included in an assessment scheme, including continuing registration requirements.	24 25

Schedule 1 Savings, transitional and other provisions 1

Part 1 General 2

1 Regulations 3

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act. 4
5
- (2) Any such provision— 6
 - (a) may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date, and 7
8
 - (b) has effect despite anything to the contrary in this Schedule. 9
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as— 10
11
12
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or 13
14
15
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication. 16
17
18
- (4) Without limiting subclauses (1) and (2), regulations made for the purposes of this clause may amend this Schedule to provide for additional or different savings and transitional provisions instead of including the provisions in the regulations. 19
20
21

Schedule 2	Constitution and procedure of board	1
	Section 36	2
Part 1	General	3
1	Definitions	4
	In this Schedule—	5
	<i>appointed member</i> means a person who is appointed by the Minister as a member of the board.	6
		7
	<i>Deputy Chairperson</i> means the Deputy Chairperson of the board.	8
	<i>member</i> means any member of the board.	9
Part 2	Constitution	10
2	Terms of office of members	11
	Subject to this Schedule and the regulations, an appointed member holds office for such period (not exceeding 4 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.	12
		13
		14
3	Part-time appointments	15
	Appointed members hold office as part-time members.	16
4	Remuneration	17
	An appointed member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.	18
		19
		20
5	Deputies	21
(1)	A member may, from time to time, appoint a person to be the deputy of the member, and may revoke any such appointment.	22
		23
(2)	In the absence of a member, the member's deputy may, if available, act in the place of the member.	24
		25
(3)	While acting in the place of a member, a person has all the functions of the member and is taken to be a member.	26
		27
(4)	For the purposes of this clause, a vacancy in the office of a member is taken to be an absence of the member.	28
		29
(5)	This clause does not operate to confer on the deputy of a member who is the Chairperson or Deputy Chairperson the member's functions as Chairperson or Deputy Chairperson.	30
		31
		32
6	Vacancy in office of member	33
(1)	The office of an appointed member becomes vacant if the member—	34
(a)	dies, or	35
(b)	completes a term of office and is not re-appointed, or	36
(c)	resigns the office by instrument in writing addressed to the Minister, or	37
(d)	is removed from office by the Minister under this clause, or	38

(e)	is absent from 3 consecutive meetings of the board of which reasonable notice has been given to the member personally or by post, except on leave granted by the Minister or unless the member is excused by the Minister for having been absent from those meetings, or	1 2 3 4
(f)	becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or	5 6 7
(g)	becomes a mentally incapacitated person, or	8
(h)	is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.	9 10 11 12
(2)	The Minister may remove an appointed member from office at any time.	13
7	Filling of vacancy in office of appointed member	14
	If the office of any appointed member becomes vacant, a person is, subject to this Act and the regulations, to be appointed to fill the vacancy.	15 16
8	Chairperson and Deputy Chairperson	17
(1)	The Chairperson or Deputy Chairperson vacates office as Chairperson or Deputy Chairperson if he or she—	18 19
(a)	is removed from that office by the Minister under this clause, or	20
(b)	resigns that office by instrument in writing addressed to the Minister, or	21
(c)	ceases to be a member of the board.	22
(2)	The Minister may at any time remove the Chairperson or Deputy Chairperson from office as Chairperson or Deputy Chairperson.	23 24
9	Disclosure of pecuniary interests	25
(1)	If—	26
(a)	a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the board, and	27 28
(b)	the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	29 30
	the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the board.	31 32
(2)	A disclosure by a member at a meeting of the board that the member—	33
(a)	is a member, or is in the employment, of a specified company or other body, or	34
(b)	is a partner, or is in the employment, of a specified person, or	35
(c)	has some other specified interest relating to a specified company or other body or to a specified person,	36 37
	is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person that may arise after the date of the disclosure and that is required to be disclosed under subclause (1).	38 39 40
(3)	Particulars of any disclosure made under this clause must be recorded by the board in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the board.	41 42 43
(4)	After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the board otherwise determines—	44 45

(a)	be present during any deliberation of the board with respect to the matter, or	1
(b)	take part in any decision of the board with respect to the matter.	2
(5)	For the purposes of the making of a determination by the board under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not—	3
(a)	be present during any deliberation of the board for the purpose of making the determination, or	6
(b)	take part in the making by the board of the determination.	7
(6)	A contravention of this clause does not invalidate any decision of the board.	8
(7)	This clause applies to a member of a committee of the board and the committee in the same way as it applies to a member of the board and the board.	9
10	Effect of certain other Acts	12
(1)	The provisions of the <i>Government Sector Employment Act 2013</i> relating to the employment of Public Service employees do not apply to an appointed member.	13
(2)	If by or under any Act provision is made—	14
(a)	requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or	15
(b)	prohibiting the person from engaging in employment outside the duties of that office,	16
	the provision does not operate to disqualify the person from holding that office and also the office of an appointed member or from accepting and retaining any remuneration payable to the person under this Act as a member.	17
11	Personal liability	20
	A matter or thing done or omitted to be done by the board, a member of the board or a person acting under the direction of the board does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand.	21
Part 3	Procedure	22
12	General procedure	29
	The procedure for the calling of meetings of the board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the board.	30
13	Quorum	31
	The quorum for a meeting of the board is a majority of its members for the time being.	32
14	Presiding member	34
(1)	The Chairperson (or, in the absence of the Chairperson, the Deputy Chairperson, or in the absence of both the Chairperson and the Deputy Chairperson, a person elected by the members of the board who are present at a meeting of the board) is to preside at a meeting of the board.	35
(2)	The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.	36

15	Voting	1
	A decision supported by a majority of the votes cast at a meeting of the board at which a quorum is present is the decision of the board.	2 3
16	Transaction of business outside meetings or by telephone etc	4
(1)	The board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the board for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the board made at a meeting of the board.	5 6 7 8
(2)	The board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone or other electronic means, but only if any member who speaks on a matter before the meeting can be heard by the other members.	9 10 11 12
(3)	For the purposes of—	13
	(a) the approval of a resolution under subclause (1), or	14
	(b) a meeting held in accordance with subclause (2),	15
	the Chairperson and each other member have the same voting rights as they have at an ordinary meeting of the board.	16 17
(4)	A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the board.	18 19
(5)	Papers may be circulated among the members for the purposes of subclause (1) by electronic means.	20 21
17	First meeting	22
	The Minister may call the first meeting of the board in such manner as the Minister thinks fit.	23 24