

## Before the Electrical Workers Registration Board

CE No. 22320  
Electrical Worker: Davendra Chand (the Respondent)  
Registration Number: E 257533  
Electrical Worker Number: EW 114609  
Registration Class: Electrician

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### Decision of the Board in Respect of the Conduct of an Electrical Worker Under section 147G and 147M of the Electricity Act 1992

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Hearing Location: Hamilton  
Hearing Type: In Person  
Hearing and Decision Date: 20 May 2021

#### Board Members Present:

M Orange (Presiding)  
R Keys, Registered Inspector  
M Macklin, Registered Inspector  
M Kershaw, Registered Electrician  
J Davel, Lay Member  
A Yan, Registered Electrical Engineer  
M Perry, Registered Electrician

Appearances: Toli Sagaga for the Investigator

#### Procedure:

The matter was considered by the Electrical Workers Registration Board (the Board) under the provisions of Part 11 of the Electricity Act 1992 (the Act), the Electricity (Safety) Regulations 2010 (the Regulations) and the Board's Disciplinary Hearing Rules.

#### Board Decision:

The Respondent **has** committed disciplinary offences under sections 143(a)(ii), 143(g) and 143(f) of the Act.

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### Summary of the Board’s Decision

- [1] The Respondent carried out prescribed electrical work in a manner that was contrary to an enactment, allowed an unauthorised person to carry out prescribed electrical work and provided a false or misleading return. The Board decided that it would not take any disciplinary action. The Respondent is ordered to pay costs of \$250.

### Introduction

- [2] The hearing resulted from a complaint about the conduct of the Respondent and a report under section 147G(1) of the Act from the Investigator that the complaint should be considered by the Board.
- [3] The Respondent was served with a notice setting out the alleged disciplinary offences the Investigator reported should be considered by the Board. They were:

#### First Alleged Disciplinary Offence

1. On or around 30 June 2020 at [Omitted], Mr Davendra Chand has employed, directed, or permitted any unauthorised person to carry out any prescribed electrical work being an offence under section 143(g) of the Act, IN THAT, he has provided certification for prescribed electrical work (PEW) that has been undertaken by a person not authorised to carry out PEW.

Second Alleged Disciplinary Offence

2. On or around 30 June 2020 at [Omitted], Mr Davendra Chand has carried out or caused to be carried out prescribed electrical work in a manner contrary to any enactment relating to prescribed electrical work that was in force at the time the work was done being an offence under section 143(a)(ii) of the Act, IN THAT, he failed to adequately test the installation resulting in unsheathed conductors in the refrigeration duct in breach of regulation 20(2)(g) of the Electricity (Safety) Regulations 2010.

Or in the Alternative

3. On or around 30 June 2020 at [Omitted], Mr Davendra Chand has carried out or caused to be carried out prescribed electrical work in a negligent or incompetent manner being an offence under section 143(a)(i) of the Act, IN THAT, he failed to adequately test the installation resulting in unsheathed conductors in the refrigeration duct.

Third Alleged Disciplinary Offence

4. On or around 30 June 2020 at [Omitted], Mr Davendra Chand has provided a false or misleading return being an offence under section 143(f) of the Act, IN THAT, he:
  - a. provided a certificate of compliance for work that he failed to test; and/or
  - b. provided a certificate of compliance stating the work had been done lawfully; and/or
  - c. provided incorrect information on a certificate of compliance.

[4] Prior to the hearing, the Respondent and the Board were provided with all of the documents the Investigator had in his/her power or possession.

[5] No Board Members declared any conflicts of interest in relation to the matters under consideration.

**Function of Disciplinary Action**

[6] The common understanding of the purpose of professional discipline is to uphold the integrity of the profession. The focus is not punishment, but the protection of the public, the maintenance of public confidence and the enforcement of high standards of propriety and professional conduct. Those purposes were recently reiterated by the Supreme Court of the United Kingdom in *R v Institute of Chartered Accountants in England and Wales*<sup>1</sup> and in New Zealand in *Dentice v Valuers Registration Board*<sup>2</sup>.

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<sup>1</sup> *R v Institute of Chartered Accountants in England and Wales* [2011] UKSC 1, 19 January 2011.

<sup>2</sup> [1992] 1 NZLR 720 at p 724

- [7] Disciplinary action under the Act is not designed to redress issues or disputes between a complainant and a respondent. In *McLanahan and Tan v The New Zealand Registered Architects Board*,<sup>3</sup> Collins J. noted that:

*“... the disciplinary process does not exist to appease those who are dissatisfied ... . The disciplinary process ... exists to ensure professional standards are maintained in order to protect clients, the profession and the broader community.”*

- [8] The Board can only inquire into “the conduct of an electrical worker” with respect to the grounds for discipline set out in section 143 of the Act. It does not have any jurisdiction over contractual matters.

### **Procedure**

- [9] The matter was originally set down for a defended hearing. In the week prior to the scheduled hearing date, the Respondent obtained legal counsel, and with his assistance, the Investigator and Mr Chand came to an agreement on the facts that the Board should decide the matter on. As such, the matter proceeded on the basis of an Agreed Statement of Facts, and witnesses were not called.
- [10] The Agreed Statement of Facts had been signed on the Respondent’s behalf by his lawyer. The Respondent accepted, under oath, that the Agreed Statement of Facts was a true and accurate record.

### **Evidence**

- [11] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed<sup>4</sup>. The Board notes, as regards evidence in proceedings before it, that the provisions of section 147W of the Act apply. This section states:

*In all proceedings under this Part, the Board may, subject to section 156, receive as evidence any statement, document, information, or matter that may in its opinion assist it to deal effectively with the matter before it, whether or not it would be admissible as evidence in a court of law.*

- [12] As noted, the matter proceeded on the basis of an Agreed Statement of Facts. It set out that the Respondent was engaged by John Thomas, a heat pump installer, to carry out the electrical installation of a heat pump at [Omitted] property at [Omitted] on or around 30 June 2020.
- [13] Mr Thomas arrived at the property before Mr Chand and commenced with installing the heat pump. Mr Thomas installed conductors from the switch/isolator to the appliance terminal (outdoor heat pump unit), installed the isolator and connections,

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<sup>3</sup> [2016] HZHC 2276 at para 164

<sup>4</sup> *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

installed the interconnecting cables between the internal and external units. The Respondent then arrived at the property.

- [14] While installing the isolator, Mr Thomas cut the outer sheath of the TPS cable, leaving basic insulation for purposed live conductors. Mr Thomas did not hold any form of electrical registration.
- [15] The Respondent, when he arrived at the property, conducted a visual inspection of all connections, installed the circuit from the switchboard to the isolator, carried out the connections of the phase, neutral and earth conductors at the switchboard, and tested the heat pump installation. The Respondent provided a certificate of compliance dated 30 June 2020 describing the work that he carried out as “supply electricity to heat pump 20 Amp isolator only”.
- [16] At the hearing, the Respondent was questioned as to whether his intention in issuing a certificate of compliance was to certify all of the prescribed electrical work (PEW) that had been carried out for the installation of the heat pump, including the work that Mr Thomas had carried out prior to his arrival at the premises. The Respondent was asked if he was supervising Mr Thomas. He stated that he was not. The Respondent stated Mr Thomas was known to him, that he had not previously carried out work for him, and that Mr Thomas runs his own business installing heat pumps. The Respondent stated that his certification was intended to cover all of the PEW, including that completed by Mr Thomas prior to his arrival.
- [17] The Respondent also gave evidence that he had connected the power and the heat pump was operational when he left the installation. The Respondent gave the following answers to questions with regard to certification:

*MR CHAND: Oh, I made that (inaudible) from the board to the heat pump. I certified everything. So when I tested it, the readings were all good. Then I made myself*

*MR ORANGE: So are you saying that your certification covered what Mr Thomas did as well?*

*MR CHAND: Yes, yeah.*

*MR ORANGE: Okay, because that's not what your CoC says?*

*MR CHAND: No, no, that's not in my CoC.*

*MR ORANGE: But that was your intention*

*MR CHAND: Yes.*

*MR ORANGE: that it was to cover his work*

*MR CHAND: Yes.*

*MR ORANGE: as well as what you did?*

*MR CHAND: Because the reason being I I just never been no idea what he has done, whatever he has done, but I took over, because as a sparkie, I have to (inaudible) that myself you know, to do the job.*

- [18] The Respondent accepted that he had permitted Mr Thomas, an unauthorised person, to carry out PEW being an offence under section 143(g) of the Act by providing certification for PEW that has been undertaken by a person not authorised to carry out PEW.
- [19] The Respondent also accepted that he had carried out or caused to be carried out PEW in a manner contrary to any enactment relating to PEW that was in force at the time the work was done being an offence under section 143(a)(ii) of the Act, in that, he failed to adequately test the installation which resulted in unsheathed conductors in the refrigeration duct in breach of regulation 20(2)(g) of the Electricity (Safety) Regulations 2010 which states:
- cables (including underground cables) are inadequately protected against the risk of damage by the nature of their covering or their method of installation*
- [20] The isolator at the unit was connected by the heat pump technician, Mr Thomas, who stripped the TPS sheath off to expose the phase conductor. Mr Thomas then cut the phase conductor and connected it to the isolator, and taped the unsheathed neutral and earth together, which were not enclosed in the isolator, but were tucked into a plastic ducting used to contact the refrigeration pipes. The Respondent accepted that if he had adequately tested the installation, he would have observed the unsheathed conductors in the refrigeration duct.
- [21] The Respondent also accepted that he had failed to provide any return required under any enactment relating to prescribed electrical work or provided a false or misleading return being an offence under section 143(f) of the Act, in that he had provided incorrect information on a certificate of compliance (indicated both general and high-risk PEW was carried out when there was no high-risk PEW) and had provided a certificate of compliance stating the work had been done lawfully when an unsheathed conductor was left in the refrigeration duct.
- [22] At the hearing, the Respondent gave further evidence that he completed the certification under adverse conditions and did not pay enough attention to its accuracy.
- [23] The general rule is that all facts in issue or relevant to the issue in a case must be proved by evidence. As the Investigator and Respondent agreed to the facts as outlined above, it was not necessary to call any further evidence or to test the evidence as outlined in the Statement.

### Board's Conclusion and Reasoning

- [24] The Board decided (Member Kershaw dissenting) that the Respondent employed, directed, or permitted an unauthorised person to carry out any prescribed electrical work being an offence under section 143(g) of the Act, in that, he provided certification for prescribed electrical work that had been undertaken by a person not authorised to carry out PEW.
- [25] The Board also decided (unanimously) that the Respondent had carried out or caused to be carried out PEW in a manner contrary to any enactment relating to PEW that was in force at the time the work was done being an offence under section 143(a)(ii) of the Act, in that, he failed to adequately test the installation resulting in unsheathed conductors in a refrigeration duct in breach of regulation 20(2)(g) of the Electricity (Safety) Regulations 2010.
- [26] The Board further decided (Member Kershaw dissenting) that the Respondent had provided a false or misleading return being an offence under section 143(f) of the Act, in that, he provided a certificate of compliance for work that he failed to test, provided a certificate of compliance stating the work had been done lawfully when it had not, and provided incorrect information on a certificate of compliance.
- [27] The Board made its decision on the basis of the Agreed Statement of Facts and the additional evidence received at the hearing. The reasoning for the Board's decisions follow.

### Unauthorised PEW

- [28] Section 74 of the Act places restrictions on who can carry out PEW. It states:

**74      *Restrictions on doing or assisting with prescribed electrical work***  
**(1)**     *A person must not do any prescribed electrical work, or assist in doing any prescribed electrical work, unless that person is authorised to do so under this section.*

- [29] Sections 75 to 80 of the Act provide for various exemptions. Section 77 provides an exemption for trainees who carry out PEW under supervision. A trainee is a person who holds a trainee limited certificate issued by the Board<sup>5</sup>. Section 76 creates a more general exemption for any person to carry out PEW under supervision.
- [30] Mr Thomas was not an authorised person and was not working under the Respondent's supervision. The Respondent stated that his certificate of compliance (CoC) was intended to cover all of the prescribed electrical work.
- [31] A CoC must, under regulation 65 of the Safety Regulations, be issued for all general and high risk prescribed electrical work on installations or part installations. Under regulation 65(3) general prescribed electrical work may not be treated as complete until a CoC is issued for it. At the same time, under regulation 73A(1)(c), a CoC must have been issued or sighted before a power supply is connected to an installation or

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<sup>5</sup> Refer section 77(2) of the Act.

part installation on which prescribed electrical work has been carried out. Under regulation 73B, it is an offence to connect an installation or part installation in breach of regulation 73A.

[32] The Respondent accepted that he had allowed an unauthorised person to carry out PEW contrary to the provisions of section 74 of the Act. If he had maintained that his certification was only for “supply electricity to heat pump 20 Amp isolator only”, then he would have been in breach of regulation 73A and have committed an offence under regulation 73B as he would then have connected a part installation without having received certification for the PEW that had, prior to his arrival, been completed.

[33] It should be noted that allowing an unauthorised person to carry out PEW is a serious matter. The restrictions created in the Act are put in place so as to ensure that PEW is only carried out or supervised by competent persons. This ensures that the purposes of the Act are promoted. Those purposes include<sup>6</sup>:

- (c) *to protect the health and safety of members of the public in connection with the supply and use of electricity in New Zealand; and*
- (d) *to promote the prevention of damage to property in connection with the supply and use of electricity in New Zealand*

[34] The Respondent should also note that his conduct came within the provisions of section 162 of the Act, which states:

**162 Offence to engage in prescribed electrical work in breach of section 74**

*Every person who does, or assists in doing, any prescribed electrical work in breach of section 74 commits an offence and is liable on conviction to a fine not exceeding \$50,000 in the case of an individual, or \$250,000 in the case of a body corporate.*

[35] The Respondent is also reminded that he should, prior to certifying the PEW of others, check that they are an authorised person. This can be done by checking the online register of electrical workers.

Contrary to an Enactment

[36] Contrary to an enactment is a form of strict liability offence in that all that need be proven is that the relevant enactment has been breached – in the instance the Electricity (Safety) Regulations 2010 or any of the cited standards within Schedule 2 of the Regulations. The Board does not need to find that there was intention, fault or negligence<sup>7</sup>. In this respect, the provisions of Regulation 11 are noted:

**11 Strict liability offences**

<sup>6</sup> Refer section 1A of the Act.

<sup>7</sup> *Blewman v Wilkinson* [1979] 2 NZLR 208



- (1) *Subclauses (2) and (3) apply to every offence in these regulations except those that specifically refer to a defendant's state of knowledge or intention regarding the facts constituting the offence.*
- (2) *In a prosecution for an offence to which this subclause applies, it is not necessary for the prosecution to prove that the defendant knew or intended the facts that constitute the offence.*

[37] The Respondent accepted that he had committed the disciplinary offence. Specially the Respondent accepted that he had failed to adequately test, and that the failure resulted in unsheathed conductors in a refrigeration duct.

[38] As noted in the Agreed Statement of Facts, under regulation 20(2)(g) of the Electricity (Safety) Regulations, PEW is deemed to be electrically unsafe if cables are inadequately protected against the risk of damage by the nature of their covering or their method of installation. The manner in which conductors were installed meant that there were unsheathed conductors in a duct. The duct would not have been sufficient to protect against the risk of damage.

[39] The manner in which the PEW was carried out was also contrary to provisions in AS/NZS3000:2017, a standard which is cited in the Electricity (Safety) Regulations and which must, under regulation 59, be used when carrying out PEW on an installation. Clauses in section 3.10 stipulate the types of wiring enclosures that can be used. The PEW that was completed did not meet those requirements.

#### Certification

[40] The charge under section 143(f) of the Act related to the provision of a false or misleading return. In determining whether a return is false or misleading is a question of fact to be decided objectively, and the intention of the issuer is irrelevant<sup>8</sup>.

[41] The returns referred to are issued under the Regulations. There is a requirement that an Electrical Safety Certificate (ESC) be issued for all prescribed electrical work. It must contain a statement to the effect that the installation or part installation is connected to a power supply and is safe to use. There is also a requirement that a CoC is issued for high and general risk prescribed electrical work. A CoC must state that the prescribed electrical work has been done lawfully and safely and that the information in the certificate is correct.

[42] It did not appear that an ESC had been issued as part of the CoC that was provided. The Investigator did not, however, bring a charge before the Board with respect to that. Notwithstanding, the Respondent is reminded that an ESC is required for all PEW carried out on installations.

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<sup>8</sup> *Taylor Bros Ltd v Taylor Group Ltd* [1988] 2 NZLR 1

- [43] The CoC that was issued contained material errors. As such, it was inaccurate, and section 143(f) had been contravened.
- [44] The Respondent stated that he had rushed the certification and that he would take more care in future. He is reminded that certification is an important task. Others are entitled to rely on the statements made. Care needs to be taken in its completion.

### **Penalty, Costs and Publication**

- [45] Having found that one or more of the grounds in section 143 applies the Board must, under section 147M of the Act<sup>i</sup>, consider the appropriate disciplinary penalty, whether the Respondent should be ordered to pay any costs and whether the decision should be published.
- [46] The Respondent made submissions at the hearing as regards penalty, costs and publication.

### Penalty

- [47] The purpose of professional discipline is to uphold the integrity of the profession; the focus is not punishment, but the enforcement of a high standard of propriety and professional conduct. The Board does note, however, that the High Court in *Patel v Complaints Assessment Committee*<sup>9</sup> commented on the role of “punishment” in giving penalty orders stating that punitive orders are, at times, necessary to provide a deterrent and to uphold professional standards. The Court noted:

*[28] I therefore propose to proceed on the basis that, although the protection of the public is a very important consideration, nevertheless the issues of punishment and deterrence must also be taken into account in selecting the appropriate penalty to be imposed.*

- [48] The Board also notes that in *Lochhead v Ministry of Business Innovation and Employment*<sup>10</sup> the Court noted that whilst the statutory principles of sentencing set out in the Sentencing Act 2002 do not apply to the Electricity Act they have the advantage of simplicity and transparency. The Court recommended adopting a starting point for a penalty based on the seriousness of the disciplinary offending prior to considering any aggravating and/or mitigating factors. The same applies to disciplinary proceedings under the Electricity Act.
- [49] The offending, whilst serious, had to be taken in the context of the job and how it was carried out. The Board saw those circumstances as being mitigating factors. Additionally, the Board was satisfied, having heard from the Respondent, that the conduct was out of character and that he would not re-offend. On that basis, the Board decided that it would not take any further action.

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<sup>9</sup> HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

<sup>10</sup> 3 November 2016, CIV-2016-070-000492, [2016] NZDC 21288

Costs

- [50] Under section 147N of the Act, the Board may require the Respondent to pay the Board any sum that it considers just and reasonable towards the costs and expenses of, and incidental to the investigation, prosecution and the hearing.
- [51] The Respondent should note that the High Court has held that 50% of total reasonable costs should be taken as a starting point in disciplinary proceedings and that the percentage can then be adjusted up or down having regard to the particular circumstances of each case<sup>11</sup>.
- [52] In *Collie v Nursing Council of New Zealand*,<sup>12</sup> where the order for costs in the tribunal was 50% of actual costs and expenses, the High Court noted that:
- But for an order for costs made against a practitioner, the profession is left to carry the financial burden of the disciplinary proceedings, and as a matter of policy that is not appropriate.*
- [53] Based on the above the Board's costs order is that the Respondent is to pay the sum of \$250 toward the costs of and incidental to the matter. In setting the amount of costs the Board took into account that the Respondent had agreed to the matter proceeding by way of an Agreed Statement of Facts.

Publication

- [54] As a consequence of its decision, the Respondent's name and the disciplinary outcomes will be recorded in the public register as required by the Act<sup>13</sup>. The Board can, pursuant to section 147Z of the Act, also order publication over and above the public register notation. Under section 147Z the Board may, if no appeal is brought within 20 working days of its decision, direct the Registrar to cause a notice stating the effect of the decision or order, the reasons for the decision or order, and (unless the Board directs otherwise) the name of the person in respect of whom the decision or order was made, to be published in the Gazette and any other publications as may be directed by the Board.
- [55] As a general principle such further public notification may be required where the Board perceives a need for the public and/or the profession to know of the findings of a disciplinary hearing. This is in addition to the Respondent being named in this decision.
- [56] Within New Zealand, there is a principle of open justice and open reporting which is enshrined in the Bill of Rights Act 1990<sup>14</sup>. The Criminal Procedure Act 2011 sets out grounds for suppression within the criminal jurisdiction<sup>15</sup>. Within the disciplinary

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<sup>11</sup> *Cooray v The Preliminary Proceedings Committee* HC, Wellington, AP23/94, 14 September 1995, *Macdonald v Professional Conduct Committee*, HC, Auckland, CIV 2009-404-1516, 10 July 2009, *Owen v Wynyard* HC, Auckland, CIV-2009-404-005245, 25 February 2010.

<sup>12</sup> [2001] NZAR 74

<sup>13</sup> Refer sections 128 of the Act

<sup>14</sup> Section 14 of the Act

<sup>15</sup> Refer sections 200 and 202 of the Criminal Procedure Act

hearing jurisdiction, the courts have stated that the provisions in the Criminal Procedure Act do not apply but can be instructive<sup>16</sup>. The High Court provided guidance as to the types of factors to be taken into consideration in *N v Professional Conduct Committee of Medical Council*<sup>17</sup>.

- [57] The courts have also stated that an adverse finding in a disciplinary case usually requires that the name of the practitioner be published in the public interest<sup>18</sup>. It is, however, common practice in disciplinary proceedings to protect the names of other persons involved as naming them does not assist the public interest.
- [58] Based on the above, the Board will publish a general article in the *Electron* summarising the matter but will not order further publication. The Respondent will not be identified in the *Electron*.
- [59] The Respondent should also note that the Board has not made any form of an order under section 153(3) of the Act, which allows for the prohibition of publication.

#### **Penalty, Costs and Publication Orders**

- [60] For the reasons set out above, the Board directs that:

**Penalty:** Pursuant to section 147M(1)(h) of the Electricity Act 1992, the Board will not take any disciplinary action.

**Costs:** Pursuant to section 147N of the Act, the Respondent is ordered to pay costs of \$250 (GST included) towards the costs of, and incidental to, the inquiry of the Board.

**Publication:** The Registrar shall record the Board's action in the Register of Electrical Workers in accordance with section 128(1)(c)(viii) of the Act.

**The Respondent will be named in this decision.**

**A summary of the matter will be published by way of an article in the *Electron* which will focus on the lessons to be learnt from the case. The Respondent will not be named in the publication.**

- [61] The Respondent should note that the Board may refuse to relicence an electrical worker who has not paid any fine or costs imposed on them.

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<sup>16</sup> *N v Professional Conduct Committee of Medical Council* [2014] NZAR 350

<sup>17</sup> *ibid*

<sup>18</sup> *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055

**Right of Appeal**

[62] The right to appeal Board decisions is provided for in section 147ZA and 147ZB of the Act<sup>ii</sup>.

Signed and dated this 10<sup>th</sup> day of June 2021



**Mr M Orange**  
Presiding Member

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<sup>i</sup> **Section 147M of the Act**

- (1) *If the Board, after conducting a hearing, is satisfied that a person to whom this Part applies is guilty of a disciplinary offence, the Board may—*
- (a) *do 1 or more of the following things:*
    - (i) *order that the person's registration or practising licence (or both) be cancelled:*
    - (ii) *order that the person's provisional licence be cancelled:*
    - (iii) *order that the person may not apply to be reregistered or re-licensed before the expiry of a specified period:*
  - (b) *order that the person's registration or practising licence (or both), or the person's provisional licence, be suspended—*
    - (i) *for any period that the Board thinks fit; or*
    - (ii) *until that person does 1 or more of the things specified in subsection (2):*
  - (c) *order that the person's registration or practising licence (or both), or the person's provisional licence, be restricted for any period that the Board thinks fit, in either or both of the following ways:*
    - (i) *by limiting the person to the work that the Board may specify:*
    - (ii) *by limiting the person to doing, or assisting in doing, work in certain circumstances (for example, by limiting the person to work only on approved premises or only in the employ of an approved employer):*
  - (d) *order that the person be disqualified from doing or assisting in doing prescribed electrical work that the person would otherwise be authorised to do in that person's capacity as a person to whom this Part applies—*
    - (i) *permanently, or for any period that the Board thinks fit; or*
    - (ii) *until that person does 1 or more of the things specified in subsection (2):*
  - (e) *order the person to do 1 or more of the things specified in subsection (2) within the period specified in the order:*
  - (f) *order the person to pay a fine not exceeding \$10,000:*
  - (g) *order that the person be censured:*
  - (h) *make no order under this subsection.*
- (2) *The things that the person can be required to do for the purposes of subsection (1)(b), (d), and (e) are to—*
- (a) *pass any specified examination:*
  - (b) *complete any competence programme or specified period of training:*

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- (c) attend any specified course of instruction.
- (3) The Board may take only 1 type of action in subsection (1) in relation to a case, except that it may impose a fine under subsection (1)(f) in addition to taking the action under subsection (1)(b), (c), (e) or (g).
- (4) No fine may be imposed under subsection (1)(f) in relation to an act or omission that constitutes an—
- (a) offence for which the person has been convicted by a court; or
- (b) infringement offence for which the person has been issued with an infringement notice and has paid an infringement fee.
- (5) The Board must not exercise any authority conferred by this section in respect of any offence committed by any person before the date of that person's registration or, as the case may be, the date on which that person's provisional licence was issued if at that date the Board was aware of that person's conviction for that offence.
- (6) If a person is registered under Part 10 in respect of more than 1 class of registration, the Board may exercise its powers under subsection (1)(a) to (e) in respect of each of those classes or 1 or more of those classes as the Board thinks fit.]

**ii Section 147ZA Appeals**

- (1) A person who is dissatisfied with the whole or any part of any of the following decisions, directions, or orders may appeal to the District Court against the decision, direction, or order:
- (e) any decision, direction, or order under any of sections 108, 109, 120, 133, 137, and 153 or Part 11 (except section 147C).

**Section 147ZB Time for lodging appeal**

An appeal under section 147ZA must be brought within—

- (a) 20 working days after notice of the decision, direction, or order was given to, or served on, the appellant; or
- (b) any further time that the District Court may allow on application made before or after the expiration of that period.