



**Before the Electrical Workers Registration Board**

	CE No. 21600
Electrical Worker:	Bruce Montgomery (the Respondent)
Registration Number:	E 558
Electrical Worker Number:	EW 036831
Registration Class:	Electrician

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

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Hearing Location:	Wellington
Hearing Type:	In Person
Hearing Date:	21 August 2019
Decision Date:	21 August 2019

**Board Members Present:**

Mel Orange (Presiding)  
Michael Macklin, Registered Inspector  
Monica Kershaw, Registered Electrician  
Mac McIntyre, Registered Electrician  
Jane Davel, Lay Member  
Russell Keys, Registered Inspector  
Ashley Yan, Registered Electrical Engineer

**Appearances:** Jessica Ellison 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 section 143(a)(i) and 143(f) of the Act.

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**Introduction**

- [1] 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.
- [2] The Respondent was served with a notice setting out the alleged disciplinary offences the Investigator reported should be considered by the Board. The alleged disciplinary offences were:

**First Alleged Disciplinary Offence**

- 1. On or around January 2018 at [Omitted] the Respondent negligently created a risk of serious harm to any person, or a risk of significant property damage, through having carried out or caused to be carried out prescribed electrical work being an offence under section 143(b)(ii) of the Act, IN THAT, he installed two socket outlets within 500mm of gas cylinders in breach of AS/NZS 300:2007 4.18.2.



Or in the Alternative

2. On or around January 2018 at [Omitted] the Respondent 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 installed two socket outlets within 500mm of gas cylinders in breach of AS/NZS 300:2007 4.18.2.

Or in the Alternative

3. On or around at [Omitted], the Respondent 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 installed two socket outlets within 500mm of gas cylinders in breach of AS/NZS 300:2007 4.18.2. in breach of regulation 59 of the Electricity (Safety) Regulations 2010.

### **Second Alleged Disciplinary Offence**

4. On or around January 2018 at [Omitted], Mr Bruce Montgomery failed to provide a return being an offence under section 143(f) of the Act, IN THAT, he failed to issue a Certificate of Compliance for two socket outlets as required by Regulation 65 of the Electricity (Safety) Regulations 2010.

### **Third Alleged Disciplinary Offence**

5. On or around January 2018 at [Omitted] Mr Bruce Montgomery has failed to provide a return being an offence under section 143(f) of the Act, IN THAT, he failed to issue an Electrical Safety Certificate for two socket outlets as required by Regulation 74A(3)(f)(g) of the Electricity (Safety) Regulations 2010.

[3] 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.

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



## Function of Disciplinary Action

- [5] 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>.
- [6] 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.”*
- [7] 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.

## Evidence

- [8] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed<sup>4</sup>. The Board notes that 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.*
- [9] Counsel for the Investigator filed briefs of evidence from the Complainant, the Investigator and from Mr Steven Doust who had carried out a technical review of the prescribed electrical work completed by the Respondent. Those witnesses appeared and gave evidence as did the Respondent.
- [10] The evidence before the Board set out that the Respondent had installed a socket outlet containing a switch on each of two temporary accommodation units and that these switched outlets were within 500mm of gas cylinders that supplied califont

<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

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

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



water heaters. Photographs with a tape measure indicated distance from the sockets to the gas cylinders.

- [11] The Respondent accepted that he had carried out the work but gave evidence that he had done so under the direction of his manager, an electrical worker, and that he had informed her that the sockets would be in a non-compliant position. He stated that he had been instructed to carry out the install notwithstanding those concerns but that he believed his manager was the electrician in charge and that she was taking responsibility for the safety and compliance of the prescribed electrical work. He described himself as a wiring hand and not the electrician in charge. He believed that his manager would provide the required certification for the work. The Respondent did not know if any certification had been issued. He accepted that he had connected the sockets to a power supply and had left them connected.
- [12] Mr Doust gave his opinion that the manner in which the prescribed electrical work had been carried out created a risk of serious harm or significant property damage as the cylinders contained a heavier than air flammable gas and the socket outlet and switch would, under normal operation, create a spark which was a source of ignition.
- [13] Evidence was received that the installation was remediated by the gas bottles being moved outside of the exclusion zone for electrical equipment.

## Legal Provisions

- [14] The charges put before the Board were laid in the alternatives of contrary to an enactment under section 143(a)(ii) and, as alternatives, negligence or incompetence under section 143(a)(i) and contrary to an enactment under section 143(a)(ii).
- [15] There is a hierarchy to the disciplinary charges in that the Board needs to first consider whether the prescribed electrical work was carried out or caused to be carried out in a manner that was contrary to an enactment. If the Board finds in the affirmative it then needs to consider whether the conduct reaches the threshold for a finding of negligence or incompetence. If that threshold is met the Board then needs to consider whether a risk of serious harm or significant property damage was created.
- [16] Contrary 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>5</sup>. In this respect the provisions of Regulation 11 are noted:

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<sup>5</sup> *Blewman v Wilkinson* [1979] 2 NZLR 208



## 11 **Strict liability offences**

- (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.*

[17] Turning to negligence and/or incompetence there are no statutory definitions of the terms. It is noted however, that they are not the same. In *Beattie v Far North Council*<sup>6</sup> Judge McElrea noted:

*[43] Section 317 of the Act uses the phrase "in a negligent or incompetent manner", so it is clear that those adjectives cannot be treated as synonymous.*

[18] Negligence is considered to be the departure by an electrical worker, whilst carrying out or supervising prescribed electrical work, from an accepted standard of conduct. It is judged against those of the same class of licence as the person whose conduct is being inquired into. This is described as the *Bolam*<sup>7</sup> test of negligence which has been adopted by the New Zealand Courts<sup>8</sup>.

[19] Incompetence is a lack of ability, skill or knowledge to carry out or supervise prescribed electrical work to an acceptable standard. *Beattie* put it as "a demonstrated lack of the reasonably expected ability or skill level". In *Ali v Kumar and Others*<sup>9</sup> it was stated as "an inability to do the job".

[20] The New Zealand Courts have stated that assessment of negligence and/or incompetence in a disciplinary context is a two-stage test<sup>10</sup>. The first is for the Board to consider whether the practitioner has departed from the acceptable standard of conduct of a professional. The second is to consider whether the departure is significant enough to warrant a disciplinary sanction.

[21] When considering what an acceptable standard is the Board must have reference to the conduct of other competent and responsible practitioners and the Board's own assessment of what is appropriate conduct, bearing in mind the purpose of the Act<sup>11</sup>. The test is an objective one and in this respect it has been noted that the purpose of discipline is the protection of the public by the maintenance of professional

<sup>6</sup> Judge McElrea, DC Whangarei, CIV-2011-088-313

<sup>7</sup> *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582

<sup>8</sup> *Martin v Director of Proceedings* [2010] NZAR 333 (HC), *F v Medical Practitioners Disciplinary Tribunal* [2005] 3 NZLR 774 (CA)

<sup>9</sup> *Ali v Kumar and Others* [2017] NZDC 23582 at [30]

<sup>10</sup> *Martin v Director of Proceedings* [2010] NZAR 333 (HC), *F v Medical Practitioners Disciplinary Tribunal* [2005] 3 NZLR 774 (CA)

<sup>11</sup> *Martin v Director of Proceedings* [2010] NZAR 333 at p.33



standards and that this could not be met if, in every case, the Board was required to take into account subjective considerations relating to the practitioner<sup>12</sup>.

[22] The Board notes that the purposes of the Act are:

**1A Purposes**

*The purposes of this Act are—*

- (a) to provide for the regulation, supply, and use of electricity in New Zealand; and*
- (b) Repealed.*
- (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; and*
- (da) to provide for the regulation of fittings and electrical appliances that are, or may be, exported pursuant to an international trade instrument; and*
- (e) to provide for the regulation of electrical workers.]*

[23] The Board also notes, as regards acceptable standards, that all prescribed electrical work must comply with the Electricity (Safety) Regulations 2010 and the cited Standards and Codes of Practice in Schedule 2 of the Regulations. As such, when considering what is and is not an acceptable standard they must be taken into account.

[24] Turning to seriousness in *Collie v Nursing Council of New Zealand*<sup>13</sup> the Court's noted, as regards the threshold for disciplinary matters, that:

*[21] Negligence or malpractice may or may not be sufficient to constitute professional misconduct and the guide must be standards applicable by competent, ethical and responsible practitioners and there must be behaviour which falls seriously short of that which is to be considered acceptable and not mere inadvertent error, oversight or for that matter carelessness.*

**Board's Conclusion and Reasoning**

[25] The Board has decided that the Respondent **has** carried out or caused to be carried out prescribed electrical work in a negligent manner being an offence under section 143(a)(i) of the Act, in that, he installed two socket outlets within 500mm of gas cylinders in breach of AS/NZS 300:2007 4.18.2.

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<sup>12</sup> *McKenzie v Medical Practitioners Disciplinary Tribunal* [2004] NZAR 47 at p.71

<sup>13</sup> [2001] NZAR 74



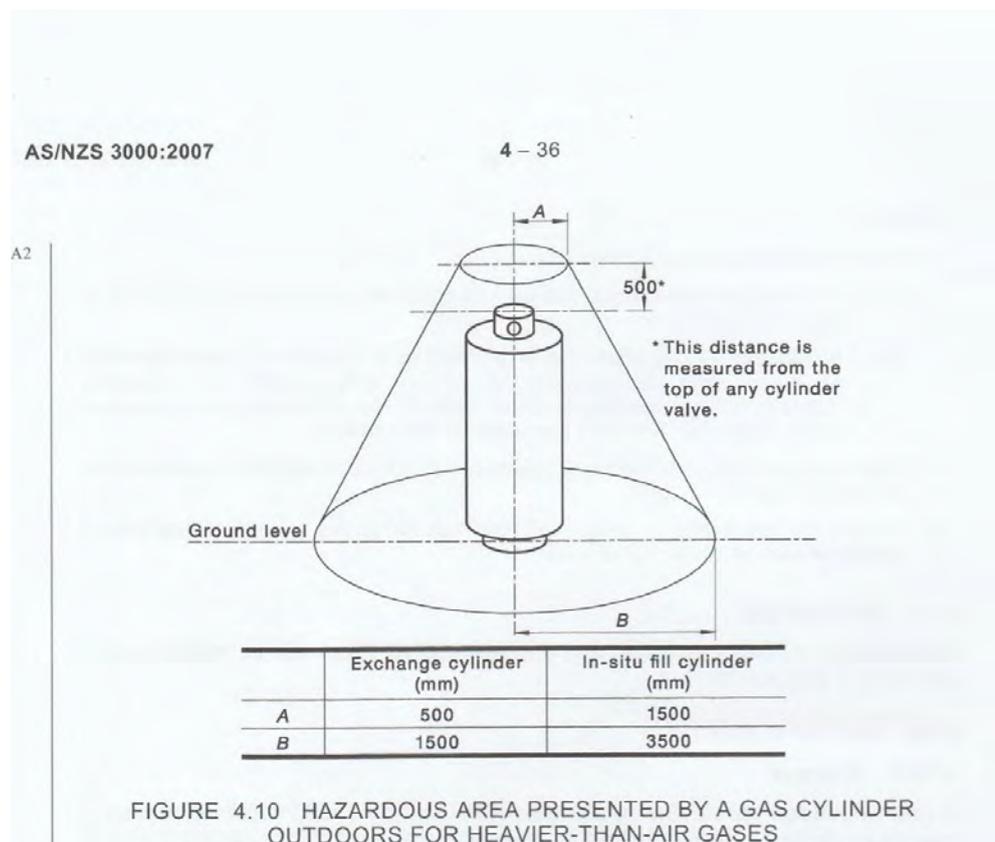
- [26] The Board has also decided that the Respondent **has** failed to provide a return being an offence under section 143(f) of the Act, IN THAT, he failed to issue a combined Electrical Safety Certificate and Certificate of Compliance for two socket outlets as required by the Electricity (Safety) Regulations 2010.
- [27] Whilst the Respondent had been charged with two counts of breaching section 143(f) of the Act the Board decided that a single finding was sufficient. Ordinarily breaches of section 143(f), where the allegation is that an electrical worker has failed to provide documentation, is filed as a single charge. The Board considered that there was an element of duplication in separate charges for the Electrical Safety Certificate and Certificate of Compliance being filed. As such, and out of fairness to the Respondent and to ensure consistency with other matters that have come before the Board, the Board decided that a single finding was appropriate.
- [28] The Board's reasons for its decisions in respect of the two charges upheld follow.

#### The First Charge

- [29] Regulation 59 requires that low and extra low voltage installations comply with AS/NZS 3000. The installation in question was a low voltage installation. There was clear evidence before the Board that the prescribed electrical work had been carried out in a manner that was contrary to it. Specifically, clause 4.18.2 had been breached. It provides:

***Gas cylinders containing heavier than air gases – outdoors***

*Electrical equipment that is a source of ignition, such as socket outlets, switches, luminaries, switchboards, meter boxes and air conditioners, shall not be installed within the hazardous areas shown in Figure 4.10 by dimensions A and B. Dimensions A and B are shown in Figure 4.10 for both exchange and in-situ fill gas cylinders.*



- [30] Given the above there was prescribed electrical work that had been carried out in a manner that was contrary to an enactment.
- [31] Turning to negligence and/or incompetence the Respondent knew the prescribed electrical work completed was not compliant. The Board, which includes persons with expertise in the electrical industry, considered the Respondent displayed a lack of reasonably expected care in carrying on and completing the prescribed electrical work notwithstanding that he knew that it would, on completion, be non-compliant.
- [32] The Respondent submitted that he was not the responsible electrical worker. The Board did not accept that submission.
- [33] The Respondent gave evidence that he connected the power supply to the fittings he had installed. A certificate of compliance had not been issued prior to the connection. The work was, under Regulation 6A, general prescribed electrical work. As such a certificate of compliance was required under Regulation 65.
- [34] Under Regulation 73A there were various requirements that had to be met before the power supply was connected:



**73A Before connecting installations to power supply**

- (1) *Before connecting to a power supply a low or extra-low voltage installation or part installation on which prescribed electrical work has been done, the person doing the connection must—*
- (a) *be satisfied that the installation or part installation is safe to connect; and*
  - (b) *be satisfied that the testing required by these regulations has been done; and*
  - (c) *if a certificate of compliance is required for the work, either issue or sight a certificate of compliance issued no earlier than 6 months before the installation or part installation is connected; and*
  - (d) *if the work is required to be inspected, either inspect the work and complete a record of inspection or sight a record of inspection given by another person no earlier than 6 months before the installation or part installation is connected; and*
  - (da) *if the work is required to be inspected and a certificate of compliance is required for the work, attach the certificate of compliance or a copy of the certificate of compliance to the record of inspection; and*
  - (e) *in the case of a low voltage installation or part installation, do all of the following:*
    - (i) *ensure that the polarity and phase rotation of the supply are correct:*
    - (ii) *ensure that the protection of the supply is correctly rated:*
    - (iii) *ensure that the installation or part installation to be connected is compatible with the supply system:*
    - (iv) *if the supply is from a MEN system, verify that there is a main earthing system.*

[35] The Board notes that the part installation was not safe to connect contrary to Regulation 73A(1)(a) and that a certificate of compliance had not been issued contrary to Regulation 73A(1)(c).



- [36] Irrespective of who the Respondent considered was in charge the facts are that he connected a power supply to non-compliant prescribed electrical work and he must take responsibility for that.
- [37] In this respect it is also to be noted that the Respondent's conduct amounted to an offence under Regulation 73B which states:

***73B Offence relating to connection***

*A person who connects an installation or part installation to a power supply in breach of any requirement of regulation 73A commits an offence and is liable on conviction to a level 2 penalty.*

- [38] A level 2 penalty, for an individual is a fine not exceeding \$10,000.
- [39] Turning to seriousness the Board noted that the conduct was not a matter of inadvertent error, oversight or carelessness. Rather the Respondent knowingly departed from the acceptable standards. As such it is appropriate that the Board makes a finding of negligence.
- [40] Finally, when considering whether the negligence had resulted in the creation of a risk of serious harm or significant property damage the Board noted that, on a prima facie basis, a risk was created. The Board noted, however, the environment where the install was located, the short period of time the risk remained and the ease of the solution which was to move the gas bottles a short distance away. Having taken those factors into account and looking at the overall scale of the offending the Board decided that a finding under section 143(b)(ii) of the Act was not warranted.

The Second Charge – Certification

- [41] The final charges related to the failure to provide returns. The returns referred to are issued under the Regulations. There is a requirement that an Electrical Safety Certificate 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 Certificate of Compliance is issued for high and general risk prescribed electrical work. A Certificate of Compliance must state that the prescribed electrical work has been done lawfully and safely and that the information in the certificate is correct. Both must be issued prior to prescribed electrical work being connected to a power supply.
- [42] The Respondent gave evidence that he believed his manager would issue the certification. However, as the Respondent connected the part installation to a power supply, he is accountable for the certification as that was the point in time at which it was due. The Board also noted that there was no other evidence before it which substantiated the Respondent's assertion.



- [43] The Board considers that registered and licensed electrical workers are primarily responsible for work they carry out or supervise provided it is within the limits of their licence. Without clear and compelling evidence of another electrical worker taking responsibility for the safety and compliance of the installation or part installation then responsibility and accountability will always fall to the electrical worker who actually carried out or supervised it.

## Penalty, Costs and Publication

- [44] 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.
- [45] The Respondent made submissions at the hearing as regards penalty, costs and publication. The Board noted various mitigating background factors as regards the Respondent's employment relationship.

## Penalty

- [46] 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>14</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.*

- [47] The Board also notes that in *Lochhead v Ministry of Business Innovation and Employment*<sup>15</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 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.
- [48] The Board adopted a starting point of a fine of \$2,000. The starting point was based on penalties imposed by the Board for similar matters. The Board did not find that

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<sup>14</sup> HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

<sup>15</sup> 3 November 2016, CIV-2016-070-000492, [2016] NZDC 21288



there were any aggravating factors. There was mitigating factors. Taking those into account the Board decided to reduce the fine to \$800.

### Costs

[49] 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.

[50] 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>16</sup>.

[51] In *Collie v Nursing Council of New Zealand*<sup>17</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.*

[52] Based on the above the Board's costs order is that the Respondent is to pay the sum of \$500 toward the costs of and incidental to the matter.

### Publication

[53] 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>18</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.

[54] 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.

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<sup>16</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>17</sup> [2001] NZAR 74

<sup>18</sup> Refer sections 128 of the Act



- [55] Within New Zealand there is a principle of open justice and open reporting which is enshrined in the Bill of Rights Act 1990<sup>19</sup>. The Criminal Procedure Act 2011 sets out grounds for suppression within the criminal jurisdiction<sup>20</sup>. Within the disciplinary hearing jurisdiction the courts have stated that the provisions in the Criminal Procedure Act do not apply but can be instructive<sup>21</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>22</sup>.
- [56] 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>23</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.
- [57] Based on the above the Board will order further publication by way of an article in the Electron. The Respondent will not be named in it. The article will focus on the lessons to be learned from the case including the requirement to take other services supplying an installation into account when carrying out prescribed electrical work and the need to issue certification prior to connection.
- [58] The Respondent should also note that the Board has not made any form of order under section 153(3) of the Act which allows for prohibition of publication.

## Penalty, Costs and Publication Orders

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

**Penalty:** Pursuant to section 147M(1)9f) of the Electricity Act 1992, the Respondent is ordered to pay a fine of \$800.

**Costs:** Pursuant to section 147N of the Act, the Respondent is ordered to pay costs of \$500 (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.**

<sup>19</sup> Section 14 of the Act

<sup>20</sup> Refer sections 200 and 202 of the Criminal Procedure Act

<sup>21</sup> *N v Professional Conduct Committee of Medical Council* [2014] NZAR 350

<sup>22</sup> *ibid*

<sup>23</sup> *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055



- [60] 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.

**Right of Appeal**

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

Signed and dated this 4<sup>th</sup> day of September 2019.

**Mel 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—*



# Electrical Workers Registration Board

SAFETY | COMPETENCY | COMPLIANCE

- (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:
  - (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.*