



Electrical Workers Registration Board

SAFETY | COMPETENCY | COMPLIANCE

Disciplinary Hearing Rules

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Mel Orange
Presiding Member

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1. Introduction

- 1.1 These Rules have been developed to notify persons involved in Board Disciplinary Hearings (Hearings) of the procedures that will be used. They have been developed in accordance with the provisions relating to disciplinary matters in the Electricity Act 1992 (“the Act”).
- 1.2 Notwithstanding anything in these Rules all disciplinary matters and hearings will be conducted in accordance with the Act and the Board’s Standing Orders.
- 1.3 For the purposes of these Rules any reference to parties means the Investigator and the Respondent and does not include any other person.

2. Notices of Disciplinary Proceeding and Hearing

- 2.1 The Disciplinary Hearing process will commence by the Board issuing a Notice of Disciplinary Proceeding under section 147H of the Act to the electrical worker who is the subject of a complaint (the Respondent).
- 2.2 The Board will give further notice by way of a Notice of Hearing to the Respondent once final arrangements have been made for the Hearing.
- 2.3 The Board retains the power under section 156A to amend or revoke, or to revoke and replace any notice given under the Act.

3. Complaint to be Prosecuted by Investigator

- 3.1 All complaints are prosecuted by the Investigator. The Investigator may under section 147T of the Act be represented by a lawyer.
- 3.2 The Investigator will call any witnesses and present any evidence the Investigator considers necessary to prove the charge(s) against the Respondent. The required burden of proof is the on balance of probabilities.
- 3.3 Under section 147V of the Act the Investigator may appoint a person to assist the investigator.

4. Practitioner’s Defense

- 4.1 The Respondent may call any witnesses and present any evidence the Respondent considers necessary in their defense to the charge(s) at the hearing.
- 4.2 A Respondent may, at the Hearing or at any time prior to the Hearing, withdraw or change any statement made, or elect to appear or bring any representative or witness not previously stated.

5. Pre-Hearing

- 5.1 The Investigator or the Respondent may discuss the charges and the Hearing with the other party at any time prior to the Hearing. Discussions may include the development of an agreed statement of facts where all or some of the charges are admitted by the Respondent.
- 5.2 The Respondent should note that the Board does not have to accept an agreed statement of facts or the admittance of a lesser charge where more than one alternative has been put forward.
- 5.3 The Presiding Member will call a Pre-hearing Conference prior to the Hearing to ensure that proper preparations are made for a fair, orderly, and efficient Hearing. This may include issuing directions in respect of the Hearing, variations to directions and/or consideration of adjournment requests, and witness summons.
- 5.4 A Pre-hearing Conference will be held as soon as is practicable and, where possible, no later than 10 working days prior to the Hearing.
- 5.5 Pre-hearing Conferences will be conducted by the Presiding Member, or any other Member of the Board appointed for the purpose. A quorum of Board Members is not required for a Pre-hearing Conference.
- 5.6 A Pre-hearing Conference will generally be conducted by teleconference but may, at the discretion of the Member conducting it, be conducted in person.

6. Witnesses and Expert Witnesses

- 6.1 All parties must ensure their witnesses are present, and any documents or other evidence to be presented at the Hearing that has not already been submitted is made available and that they have at least 10 copies of the documents.
- 6.2 The Board has the powers of a Commission of Inquiry including the ability to subpoena any witness.
- 6.3 The Board may, if it considers it is in the interests of natural justice, call witnesses that it believes may assist the Board in making a decision.
- 6.4 A Respondent may request the Board to subpoena a witness. Any such request should be made to the Board. If the Board does subpoena a witness on behalf of the Respondent, then the Respondent will be responsible for any fees and expenses of that witness.
- 6.5 All evidence is given under oath or affirmation. This will be administered by the Board Officer.
- 6.6 Witnesses may be questioned by Board Members and cross examined by other parties.
- 6.7 Witnesses, other than expert witnesses, may be asked to leave the room until they are called to give their evidence. Witnesses may, at the discretion of the Board, be excused from the Hearing once they have given their evidence.
- 6.8 Expert witnesses, who are giving opinion evidence, are required to comply with the provisions of Schedule 4 of the High Court Rules which are attached and may be questioned by Board Members and the other parties as regards any opinions put forward.
- 6.9 Witness fees and expenses will be paid in accordance with Commission of Inquiry Act 1908 and the Witnesses and Interpreters Fees Regulations 1974.

7. Support Persons

- 7.1 A Respondent may bring a support person with them.
- 7.2 Support persons have no speaking rights at a Hearing.

8. Legal Representatives/Industry Representatives

- 8.1 A Respondent may have a legal or industry person attend the Hearing as their representative. That representative may speak on behalf of the individual.
- 8.2 If at any time the Board considers that a representative is giving evidence, then the Presiding Member will ask the person to take an oath or affirmation.

9. Legal Advisor to Assist the Board

- 9.1 Under section 147U of the Act the Board may, for the purposes of advising the Board on questions of law and procedure arising in proceedings under the Part, appoint an advisor who is a barrister or solicitor to attend the proceedings.

10. Commencement of Hearing

- 10.1 At the commencement of the Hearing all parties will be shown into the Hearing room. They will be introduced to Board Members and will be asked to introduce themselves.
- 10.2 All Hearings are held in public and are recorded. If a party to a Hearing wants the Hearing or any part of it to be held in private under section 153(3) of the Act, then they must make an application to the Board either prior to or at the Hearing. The Board may of its own motion direct that a Hearing or part of it be held in private.
- 10.3 The Respondent will be asked to confirm they have received the Notices of Disciplinary Proceeding and Hearing and that they understand how the proceedings will be conducted.
- 10.4 Any person who will give evidence at the Hearing will be sworn in by way of an oath or an affirmation at the commencement of the Hearing. Witnesses other than experts may be asked to leave the room.

11. Opening Statements

- 11.1 The Investigator is given an opportunity to provide an opening statement.
- 11.2 The Investigator will then call any witnesses and present any evidence required to prove the charges. Witnesses can be cross examined by the Respondent or questioned by the Board.
- 11.3 Once the Investigator has completed their case the Respondent will be invited to open their case and to call their witnesses. Witnesses can be cross examined by the Investigator or questioned by the Board.
- 11.4 Once the Respondent has presented their case closing submissions will be called for from the Investigator and then the Respondent.
- 11.5 The Board may, at its discretion, where it considers it is in the interests of the fair and orderly conduct of the Hearing, depart from the order outlined above.

12. Submissions in Writing

- 12.1 A respondent may elect to make submissions to the Board on the charges or on matters relating to penalty, costs, or publication in writing. Submissions made in writing must be filed no less than 10 working days prior to the Hearing.

13. Hearings on the Papers

- 13.1 The Board may decide a disciplinary matter on the papers:
- (a) where the Respondent fails to attend the Hearing after receiving notice;
 - (b) where the parties agree;
 - (c) when the Board considers, taking into account the requirement to adhere to the

principles of natural justice, that a hearing on the papers is an appropriate manner in which to conduct a hearing.

14. Board Consideration of Complaint

- 14.1 Once all evidence and submissions have been presented the Board will move into Committee to deliberate. All parties to the complaint and members of the public are required to leave the room to allow the Board to deliberate in private.

15. Outcome of Hearing

- 15.1 Once the Board has deliberated all parties will be called back to be advised of the decision.
- 15.2 The Respondent will also be notified in writing of the outcome.
- 15.3 If the Board considers it necessary, the Board may reserve its decision and thereafter provide a full written decision including its reasoning to the Respondent.

16. Submissions on Penalty, Costs and Publication

- 16.1 If the Respondent has been found to have committed any of the charges the Board will receive submissions on penalty under section 147M of the Act, costs under section 147N and publication under section 147Z.
- 16.2 The Board Officer will advise whether the Respondent has had any previous upheld disciplinary complaints.
- 16.3 The Investigator will be invited to present their submissions.
- 16.4 The Respondent will be invited to present any mitigation including character references.
- 16.5 Once all evidence and submissions have been presented the Board will move into Committee to deliberate. All parties to the complaint and members of the public are required to leave the room.
- 16.6 A Respondent should note that if the Board takes any of the actions in section 147M of the Act then a record of that action will be retained on the Register of Electrical Workers for a period of 3 years. A Respondent can apply for name suppression as outlined in part 19 below.

17. Penalty Decision

- 17.1 Once the Board has deliberated on penalty all parties will be called back to be advised of the penalty decision.
- 17.2 The Respondent will be notified in writing of the penalty, costs, and decision on publication.
- 17.3 If the Board considers it necessary, the Board may reserve its decision and thereafter provide its decision in writing.

18. Adjournment of Proceedings

- 18.1 Any party to a Hearing may request an adjournment at any time. Applications prior to the Hearing must be in writing and made to the Board care of the Registrar. An application must include the reasons for the request and copies of supporting information. Any application which is made on medical, compassionate, or work grounds must be supported with documented evidence which is satisfactory to the Board of the need for an adjournment.
- 18.2 All parties will be advised of an application for an adjournment and asked if they want to make submissions prior to the Presiding Member or, if appropriate, the Board making a decision.
- 18.3 All parties will be advised of the decision.

19. Name Suppression

- 19.1 Any party to a complaint is entitled to make an application to the Board under Section 153 of the Act to prohibit the publication of any report or account of any part of any proceeding before the Board.
- 19.2 Any application must be made to the Board, preferably in writing prior to the hearing. Reasons for the application must also be provided. Suppression will normally only be granted where the Respondent can establish to the Board's satisfaction extreme hardship to themselves or to others.
- 19.3 All parties will be advised of the application and asked if they want to make submissions.
- 19.4 The Board will consider all applications in Committee and, where available, in advance of the hearing.
- 19.5 All parties will be advised of the Board's decision.
- 19.6 If suppression of the Respondent's name is granted, then the Board may extend the suppression to details of action taken under section 147M of the Act on the Register of Electrical Workers under section 128 of the Act.

20. Request to Hold a Hearing in Private

- 20.1 All meetings of the Board are held in public. Any party to a complaint is entitled to make application under Section 153 of the Act for the hearing, or part of it, to be held in private.
- 20.2 Any application must be made to the Board, preferably in writing, prior to the hearing. Reasons for the application must also be provided.
- 20.3 All parties will be advised of the application and asked if they want to make submissions.
- 20.4 The Board will consider all applications in Committee and, where available, in advance of the hearing.
- 20.5 All parties will be advised of the Board's decision.
- 20.6 The Board may also consider, as part of the application, whether to suppress any or all of the details of the Hearing.

21. Interim Suspensions

- 21.1 If the Board imposed an interim suspension on the Respondent prior to the Hearing, then the suspension will lapse under section 147I of the Act on the Board making a finding on the charges before it.

22. Timetables

- 22.1 The Presiding Member or the Board may make directions that documents, evidence, or submissions are to be filed and circulated prior to the Hearing so that all parties are familiar with them. This may be directed where significant amounts of evidence will be given, legal submissions made, or where both parties have legal representation.
- 22.2 For example, the Presiding Member or the Board may request:
 - (a) The Investigator to file and serve a list of the witnesses they intend to call at the hearing, and briefs of the evidence it is proposed those witnesses will give, by (Day Date Month Year);
 - (b) The Respondent or their representative to file and serve a list of the witnesses they intend to call at the hearing, and briefs of the evidence it is proposed those witnesses will give, by (Day Month Year);
 - (c) All parties are to confer and file with the Board no later than (Day Month Year) a joint memorandum advising:

- (i) Which evidence is not disputed i.e., which briefs of evidence may be taken as read by the Board; and
- (ii) The areas of agreement and disagreement between the experts being called by the parties.

23. Interpreter

- 23.1 A Respondent may apply in writing to the Board (via the Registrar) no later than 10 working days prior to the Hearing date for an interpreter to be present to assist with their evidence. Any application must include the interpretation language and the reasons for the application.
- 23.2 The Board may direct that an interpreter be present even if an application is not made by the Respondent.
- 23.3 The Board will provide the interpreter from an approved interpretation service.
- 23.4 Interpreters will be required to take an oath or affirmation in the following form:
“Do you (oath or affirmation as applicable) that you will to the best of your ability truly interpret and translate the evidence of the Respondent.”

24. Media

- 24.1 Media are required to comply with the In-Court Media Coverage Guidelines as published by the Ministry of Justice (found at <http://www.justice.govt.nz/media/media-information>).
- 24.2 Media wishing to record any part of a complaint hearing, in any capacity, must apply in writing to the Board (via the Registrar) no later than 10 working days prior to the Hearing date. Any application must include:
 - (a) An Application for in Court media coverage form as per the In-Court Media Guidelines; and
 - (b) The name of the party who will be responsible for dealing with any aspect of the application or recording; and
 - (c) Details of the type of access they require e.g., audio, video, etc.; and
 - (d) An undertaking to abide by the In-Court Media Coverage Guidelines.
- 24.3 On receipt of such an application the Registrar will advise the Board and will:
 - (a) inform the Investigator and Respondent (or his/her legal representative) of the application and invite submissions from both parties within 24 hours; and
 - (b) arrange a Meeting of the Board by telephone conference to consider the applications and submissions; and
 - (c) advise the applicant, Respondent, and Investigator of the Board’s decision; and
 - (d) advise the media applicant of the Board’s decision.

Appendices

Legislation - Electricity Act 1992

128 Matters to be contained in register

- (1) The register must contain all of the following information, to the extent that the information is relevant, for each registered person:
 - (a) full name; and
 - (b) street address, telephone number, and email address (if any); and
 - (c) the following information about the status and history of the person's registration and practising licence (if any):
 - (i) the class or classes of registration in respect of which the person is registered; and
 - (ii) the date on which the person was first registered in respect of each of those

- classes; and
 - (iii) whether, in respect of each of those classes, the person holds a current practising licence; and
 - (iv) the date on which the person was first issued with a practising licence for a particular class of registration; and
 - (v) the expiry date of each practising licence held by the person; and
 - (vi) a statement of the limitations subject to which the person is registered or a practising licence has been issued (if any); and
 - (vii) any conditions placed on the registration or licence of the person; and
 - (viii) any action taken under section 127 (as in force immediately before the commencement of this section) or section 147M on a disciplinary matter in respect of the person in the last 3 years; and
 - (ix) any current suspension, the ground under this Act for the suspension, its period, and any conditions for its termination; and
 - (d) information about any cancellation of the registration of the person or of any licence held by the person under this Act, including the ground under this Act for the cancellation.
- (2) The register must contain all of the following information, to the extent that the information is relevant, for each provisional licence holder and each employer licence holder:
 - (a) full name; and
 - (b) street address, telephone number, and email address (if any); and
 - (c) the following information about the status and history of the person's licence:
 - (i) the type of licence held by the person; and
 - (ii) the date on which the person was first issued with the licence; and
 - (iii) the period for which the licence has been issued; and
 - (iv) a statement of the limitations subject to which the licence has been issued (if any); and
 - (v) any conditions placed on the licence; and
 - (vi) any action taken under section 127 (as in force immediately before the commencement of this section) or section 120 or section 147M on a disciplinary matter against the person under this Act in the last 3 years; and
 - (vii) any current suspension, the ground under this Act for the suspension, its period, and any conditions for its termination; and
 - (d) information about any cancellation of the registration of the person or of any licence held by the person under this Act, including the ground under this Act for the cancellation; and
 - (e) the following information about an employer licence holder that is a body corporate:
 - (i) the full name of a contact person for the body corporate;
 - (ii) the company number or incorporation number of the body corporate (if any).
- (3) The register must contain—
 - (a) all of the information referred to in subsection (1), to the extent that the information is relevant, in relation to a person who was formerly a registered person; and
 - (b) all of the information referred to in subsection (2), to the extent that the information is relevant, in relation to a person who was formerly a provisional licence holder or formerly an employer licence holder; and
 - (c) all other information and documentation that is prescribed as information and documentation that must be included in the register.
- (4) The register may contain any other information or documentation that the Registrar considers necessary or desirable for the purposes of the register.
- (5) For the purposes of this section, disciplinary matter means an inquiry into, or complaint about, the conduct of a person, or a decision on that inquiry or complaint.

144 [Complaints](#)

- (1) Any person (including any person in the service of the Crown acting in his or her official capacity) may complain to the Board about the conduct of a person to whom this Part applies by making the complaint in the prescribed manner to the Registrar.
- (2) However, a complaint may not be made under subsection (1) by the Board, a member of the Board, or the Registrar.
- (3) The Registrar must, as soon as practicable after receiving a complaint,—
 - (a) inform the Board Officer; and

- (b) inform the person complained against of the general nature of the complaint.
- (4) However, if the Registrar is satisfied that the complaint is frivolous or vexatious,—
 - (a) subsection (3) does not apply; and
 - (b) section 145 does not apply; and
 - (c) the Registrar must inform the complainant that the complaint will not be investigated or proceeded with.

147H Notice of disciplinary proceedings

- (1) If the Board is required to hold a hearing in respect of any person, the Presiding Member of the Board must serve on the person concerned a notice—
 - (a) that contains a statement to the effect that the investigator has reason to believe that a ground exists entitling the Board to exercise its powers under section 147M; and
 - (b) that contains the particulars that are reasonably necessary to clearly inform the person of the substance of the grounds believed to exist; and
 - (c) that specifies a date, being not less than 20 working days after the date of service of the notice, on which the Board intends to hear the matter.
- (2) The notice may require the person to whom the notice is addressed to notify the Board in writing, not later than 10 working days after the date of service of the notice, whether the person intends to appear before the Board at the hearing of the matter.
- (3) If the person fails to notify that person's intention under subsection (2), that person is entitled to appear and be heard at the hearing of the matter only on the conditions as to payment of costs and expenses or otherwise that the Board thinks fit.
- (4) Subsection (3) applies despite anything in section 147S or section 156.
- (5) Despite subsection (1)(c), the Board may hear the matter earlier than 20 working days after the date of service of the notice if the person concerned agrees.

147M Disciplinary powers of Board

- (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:
 - (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.

147S Right to appear and be heard

At a hearing held by the Board under this Part, the person to whom the hearing relates is entitled to appear and be heard, either personally or by the person's representative.

147T Investigator to prosecute matter

- (1) If the investigator reports that in the investigator's opinion a complaint should be considered by the Board, the matter must be prosecuted by the investigator at the hearing held by the Board under this Part (unless the Board orders otherwise).
- (2) The investigator may be represented by counsel or otherwise.

147U Appointment of legal advisor to assist Board

- (1) For the purposes of advising the Board on questions of law and procedure arising in proceedings under this Part, the Board may appoint an advisor who is a barrister or solicitor to attend the proceedings.
- (2) The Board must pay to the advisor, by way of remuneration and expenses for his or her services for the proceedings, the sum that is agreed upon between the advisor and the Board.

147V Appointment of persons to assist investigator

- (1) For the purposes of assisting the investigator in the performance of the investigator's functions under this Part, the Secretary may appoint any person (the *appointed person*) to assist the investigator.
- (2) The Secretary must pay to the appointed person, by way of remuneration and expenses for his or her services, the sum that is agreed upon between the appointed person and the

Secretary.

- (3) No appointed person is personally liable for any act or omission done, in good faith, in the performance or exercise or intended performance or exercise of his or her functions or powers under this Act.
- (4) The investigator may delegate any of the functions or powers of the investigator, either generally or specifically, to the appointed person.
- (5) The appointed person may, unless the delegation provides otherwise, perform the function or exercise the power in the same manner, subject to the same restrictions, and with the same effect as if the appointed person were the investigator.
- (6) If the appointed person purports to perform a function or exercise a power under a delegation, the appointed person—
 - (a) is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of that delegation; and
 - (b) must produce evidence of his or her authority to do so, if reasonably requested to do so.
- (7) No delegation under this section—
 - (a) affects or prevents the performance of any function or the exercise of any power by the investigator; or
 - (b) affects the responsibility of the investigator for the actions of the appointed person acting under the delegation.

147W Evidence

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.

147X Board to have powers of commission of inquiry

- (1) The Board has, for the purposes of any hearing under this Part, the same powers as are conferred on commissions of inquiry by sections 4 and 4B to 9 of the Commissions of Inquiry Act 1908.
- (2) Sections 4 and 4B to 9 of the Commissions of Inquiry Act 1908 apply to all persons involved in any capacity in any hearing held by the Board under this Part as if it were an inquiry conducted by a commission of inquiry under that Act.

147Y Orders to be in writing

- (1) Every order of the Board under section 147M must—
 - (a) be in writing; and
 - (b) contain a statement of the reasons on which it is based; and
 - (c) contain a clear statement of the right of the person in respect of whom it is made to appeal against the order, and the time within which notice of appeal must be given; and
 - (d) be signed by the Presiding Member of the Board.
- (2) A copy of every order of the Board under section 147M must be served by the Registrar on the person in respect of whom it is made, and takes effect—
 - (a) in accordance with section 147P; or
 - (b) from the day on which service is effected, or any later date that is specified in the order.
- (3) The Registrar must ensure that a copy of any order made under section 147M is given, as soon as practicable, to—
 - (a) the investigator who investigated the complaint; and
 - (b) the complainant (if any).

- (4) The Registrar must, if the Board so directs, give a copy of any order made under section 147M to the owner and to the occupier of the premises to which the complaint relates.

147Z Publication of orders

- (1) This section applies if—
- (a) any decision or order has been made by the Board under this Part in respect of a person, and no appeal has been brought in respect of that decision or order within 20 working days after notice of the decision or order was given to the person; or
 - (b) an order has been made under Part 12 by any court in respect of a person.
- (2) The Registrar must, if the Board in its discretion so directs, 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.
- (3) This section is subject to any order of any court

153 Meetings to be held in public

- (1) Except as provided in this section, every meeting of the Board shall be in public.
- (2) The Board may deliberate in private as to its decision in any matter or as to any question arising in the course of any proceedings before it.
- (3) If the Board is of the opinion that it is proper to do so, having regard to the interests of any person and to the public interest, it may, of its own motion or on the application of any party to the proceedings,—
- (a) Order that the whole or any part of a hearing shall be held in private:
 - (b) Make an order prohibiting the publication of any report or account of any part of any proceedings before it, whether held in public or in private:
 - (c) Make an order prohibiting the publication of the whole or any part of any documents produced at any hearing:
 - (d) Make an order prohibiting the publication of the name or any particulars of the affairs of—
 - (i) Any person who is the subject of proceedings before it:
 - (ii) Any other person.
- (4) Every application to the Board under subsection (3) of this section shall be heard in private, but the other parties to the proceedings shall be entitled to be present and to make submissions with regard to the application.
- (5) In any case where a hearing of the Board is held in private, the Board may allow any particular person to attend the private hearing if it is satisfied that the person has a special and proper interest in the matter to be heard.
- (6) Unless reversed or modified in respect of its currency by the Court on an appeal under [Part 12] of this Act, an order made under any of paragraphs (b)to(d) of subsection (3) of this section shall continue in force until such time as may be specified in the order, or, if no time is specified, until the Board, in its discretion, revokes it on the application of any party to the proceedings in which the order was made.
- (7) Every person commits an offence and is liable on... conviction to a fine not exceeding [\$5,000] who, without lawful excuse, acts in contravention of any order made by the Board under any of paragraphs (b)to(d) of subsection (3) of this section.

156A Power to amend or revoke

- (1) The Board's power to make, issue, give, or publish any order, notice, exemption, or other instrument includes the power to—
- (a) amend or revoke it:
 - (b) revoke it and replace it with another.

- (2) The Board's power to impose any terms or conditions includes the power to—
 - (a) amend or revoke those terms or conditions:
 - (b) revoke those terms or conditions and replace them with other terms or conditions.
- (3) This section does not limit section 15 of the Interpretation Act 1999.

156B Notice and service of documents by Board, member, Registrar, or investigator

- (1) If a provision of this Act requires or authorises any notice or other document, or any notification, to be given to, or served on, a person by the Board, a member of the Board, the Registrar, or an investigator, that notice, document, or notification must be given in writing to the person—
 - (a) by delivering it personally or by an agent (for example, a courier) to the person; or
 - (b) by sending it by facsimile or email to the person's facsimile number or email address; or
 - (c) by sending it by pre-paid post addressed to the person at the person's usual or last known place of residence or business; or
 - (d) in any other manner a District Court Judge directs.
- (2) In the absence of proof to the contrary, a notice, document, or notification sent by post to a person in accordance with subsection (1)(c) must be treated as having been given to, or served on, the person when it would have been delivered in the ordinary course of the post; and, in proving the delivery, it is sufficient to prove that the letter was properly addressed and posted.
- (3) If a person is absent from New Zealand, a notice, document, or notification given to, or served on, the person's agent in New Zealand in accordance with subsection (1) must be treated as having been given to, or served on, him or her.
- (4) If a person has died, the notice, document, or notification may be given or served, in accordance with subsection (1), to or on his or her personal representative.
- (5) This section applies unless a provision of this Act provides otherwise.

Legislation – Commissions of Inquiry Act 1908

4 Commissioners' powers

- (1) For the purposes of the inquiry, every such Commission shall have the powers of a District Court, in the exercise of its civil jurisdiction, in respect of citing parties and conducting and maintaining order at the inquiry.

4B Evidence

- (1) The Commission may receive as evidence any statement, document, information, or matter that in its opinion may assist it to deal effectively with the subject of the inquiry, whether or not it would be admissible in a Court of law.
- (2) The Commission may take evidence on oath, and for that purpose a member or officer of the Commission may administer an oath.
- (3) The Commission may permit a person appearing as a witness before it to give evidence by tendering a written statement and, if the Commission thinks fit, verifying it by oath.

4C Powers of investigation

- (1) For the purposes of the inquiry the Commission or any person authorised by it in writing to do so may—
 - (a) Inspect and examine any papers, documents, records, or things:
 - (b) Require any person to produce for examination any papers, documents, records, or things in that person's possession or under that person's control, and to allow copies of or extracts from any such papers, documents, or records to be made:
 - (c) Require any person to furnish, in a form approved by or acceptable to the

Commission, any information or particulars that may be required by it, and any copies of or extracts from any such papers, documents, or records as aforesaid.

- (2) The Commission may, if it thinks fit, require that any written information or particulars or any copies or extracts furnished under this section shall be verified by statutory declaration or otherwise as the Commission may require.
- (3) For the purposes of the inquiry the Commission may of its own motion, or on application, order that any information or particulars, or a copy of the whole or any part of any paper, document, or record, furnished or produced to it be supplied to any person appearing before the Commission, and in the order impose such terms and conditions as it thinks fit in respect of such supply and of the use that is to be made of the information, particulars, or copy.
- (4) Every person shall have the same privileges in relation to the giving of information to the Commission, the answering of questions put by the Commission, and the production of papers, documents, records, and things to the Commission as witnesses have in Courts of law.

4D Power to summon witnesses

- (1) For the purposes of the inquiry the Commission may of its own motion, or on application, issue in writing a summons requiring any person to attend at the time and place specified in the summons and to give evidence, and to produce any papers, documents, records, or things in that person's possession or under that person's control that are relevant to the subject of the inquiry.
- (2) For the purposes of this Act, the power to issue summonses or to do any other act preliminary or incidental to the hearing of any matter by the Commission, may be exercised by the Commission or its Chairman, or by an officer of the Commission purporting to act by direction or with the authority of the Commission or its Chairman.

5 Service of summons

- (1) A summons to a witness may be served—
 - (a) By delivering it to the person summoned; or
 - (b) By posting it by registered letter addressed to the person summoned at that person's usual place of abode.
- (2) The summons shall—
 - (a) Where it is served under subsection (1)(a) of this section, be served at least 24 hours before the attendance of the witness is required:
 - (b) Where it is served under subsection (1)(b) of this section, be served at least 10 days before the date on which the attendance of the witness is required.
- (3) If the summons is posted by registered letter it shall be deemed for the purposes of subsection (2)(b) of this section to have been served at the time when the letter would be delivered in the ordinary course of post.

6 Protection of persons appearing

Every witness giving evidence, and every counsel or agent or other person appearing before the Commission, shall have the same privileges and immunities as witnesses and counsel in Courts of law.

Code of Conduct for expert witnesses

Duty to the Court

- 1 An expert witness has an overriding duty to assist the Court impartially on relevant matters within the expert's area of expertise.
- 2 An expert witness is not an advocate for the party who engages the witness.

Evidence of expert witness

- 3 In any evidence given by an expert witness, the expert witness must—
 - (a) acknowledge that the expert witness has read this Code of Conduct and agrees to comply with it:
 - (b) state the expert witness' qualifications as an expert:
 - (c) state the issues the evidence of the expert witness addresses and that the evidence is within the expert's area of expertise:
 - (d) state the facts and assumptions on which the opinions of the expert witness are based:
 - (e) state the reasons for the opinions given by the expert witness:
 - (f) specify any literature or other material used or relied on in support of the opinions expressed by the expert witness:
 - (g) describe any examinations, tests, or other investigations on which the expert witness has relied and identify, and give details of the qualifications of, any person who carried them out.
- 4 If an expert witness believes that his or her evidence or any part of it may be incomplete or inaccurate without some qualification, that qualification must be stated in his or her evidence.
- 5 If an expert witness believes that his or her opinion is not a concluded opinion because of insufficient research or data or for any other reason, this must be stated in his or her evidence.

Duty to confer

- 6 An expert witness must comply with any direction of the Court to—
 - (a) confer with another expert witness:
 - (b) try to reach agreement with the other expert witness on matters within the field of expertise of the expert witnesses:
 - (c) prepare and sign a joint witness statement stating the matters on which the expert witnesses agree and the matters on which they do not agree, including the reasons for their disagreement.
- 7 In conferring with another expert witness, the expert witness must exercise independent and professional judgment and must not act on the instructions or directions of any person to withhold or avoid agreement.