



# Electrical Workers Registration Board

SAFETY | COMPETENCY | COMPLIANCE

## Fit and Proper Persons

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## 1. Introduction

- 1.1 Each year the Electrical Workers Registration Board registers approximately 1,500 people in one (or more) of the Board's registration classes and also issues two yearly practising licences to approximately 27,000 people.
- 1.2 The Electricity Act 1992 (the Act) makes provision for registration and licensing to be subject to the satisfying of fit and proper person criteria.
- 1.3 The Rules set out the Board's fit and proper persons criteria. They provide consistency and transparency so that any person wishing to become registered or uplift a practising licence will know the Board's registration and licensing requirements as they relate to fit and proper persons and will be able to make informed choices on those requirements.

## 2. Legislative Context

- 2.1 The provisions relating to a fit and proper person are included in sections 91, 99 and 106 of the Act. Those sections relate to the entitlement to registration, entitlement to a practising licence and the renewal of a practising licence respectively. Copies do the sections are contained in the Appendices.

## 3. Rules

- 3.1 All persons who apply for registration or for a provisional licence will be assessed as to whether they meet the fit and proper person requirements as part of their registration application.
- 3.2 All registered persons who are issued a practising licence (other than on registration) or renew their practising licence must satisfy the Board that they are remain a fit and proper person at the time of application.
- 3.3 In determining if a person is fit and proper the Board will take the following factors into consideration:
  - Has the applicant;
    - (a) ever been refused or disqualified from holding an electrical registration or electrical licence in New Zealand or any other country;

- (b) had an electrical registration or electrical licence cancelled or suspended in New Zealand or any other country;
  - (c) had any registration or licence in another regulated industry suspended or cancelled in New Zealand or any other country, for example an engineering registration or certificate;
  - (d) ever had a fine and/or costs imposed on them under the Act or the Electricity (Safety) Regulations 2010 for which payment is still outstanding;
  - (e) ever been issued with an infringement notice under the Act for which the infringement fee is still outstanding;
  - (f) ever been convicted of a criminal offence punishable by more than six months imprisonment in the last ten years in New Zealand or any other jurisdiction;
  - (g) any criminal charges punishable by more than six months imprisonment pending in New Zealand or any other jurisdiction; or
  - (h) done any other thing which may impact on their being a fit and proper person.
- 3.4 Applicants must declare, at the time of their application for registration or licensing, whether any of the above factors apply to them and or whether there are any other matters which the Board ought to be aware of as regards their character.
- 3.5 Applicants must also declare if they are the subject of pending disciplinary action as an electrical registered person or electrical licence holder in a jurisdiction outside New Zealand.
- 3.6 An applicant for registration or for a provisional licence who have any criminal convictions must include a current New Zealand or overseas criminal record.
- 3.7 The Board may, as part of its assessment of whether any applicant for registration or a provisional licence or any electrical worker seeking a licence meets the fit and proper person requirements, obtain a New Zealand Police Vetting Service criminal history check<sup>1</sup>. The Board may take any refusal to consent to the Board obtaining a criminal record into account in determining whether or not an applicant is a fit and proper person.
- 3.8 Applicants should note that it is an offence under section 160 of the Act to make a false declaration or representation for the purposes of obtaining registration or a licence or renewal or a licence and that it is punishable in the District Court by a fine of not more than \$10,000 and the Board may, under section 112 of the Act, cancel registration or a licence if it was obtained by making a false or misleading representation or declaration (whether oral or written).
- 3.9 If there is evidence of one or more of the matters in 3.2 above, then the applicant may provide the Board with further information as set out below in rules 3.10 and 3.11. If further such information is required, the Board will consider it in determining whether the applicant is a fit and proper person. If further such information is not provided, the applicant will be deemed to not be a fit and proper person.
- 3.10 The Board may also take factors other than those contained in 3.2 to 3.7 above into consideration in determining if a person is fit and proper.
- 3.11 Any applicant may submit to the Board in writing that they are, notwithstanding evidence of one or more of the matters in 3.2 above or such other evidence as the Board considers relevant, a fit and proper person.

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<sup>1</sup> Refer *Domb v Real Estate Agents Authority* [2015] HNzc 3157

- 3.12 Any such application must set out the applicants reasons. The applicant will be given an opportunity to be heard by the Board in support of their submission.
- 3.13 The Board may request the Registrar to provide it with a report in relation to any submissions received in relation to 3.8.
- 3.14 The Board will apply and adhere to the principles of natural justice in coming to its decision as to whether a person meets the fit and proper person requirements of the Act. The Board may also take any of the following into consideration:
- (a) how serious the matter is or was;
  - (b) what health and/or safety concerns it may raise;
  - (c) how long ago it occurred;
  - (d) any consequences for the applicant or any other person;
  - (e) whether it was a one off incident;
  - (f) how relevant it is to the applicant carrying out or supervising prescribed electrical work;
  - (g) the implications of the matter; i.e. what does it show about the applicant;
  - (h) the applicants attitude to the matter;
  - (i) how a member of the public who engaged the applicant to carry out prescribed electrical work would view the matter;
  - (j) anything else that the Board may consider is relevant.
- 3.15 Any person who is denied registration or a provisional licence or a licence as a result of the Board determining that they are not a fit and proper person under the Act may appear before the Board (at their cost) and present further evidence and/or submissions that they are a fit and proper person. An application to appear before the Board should be made in writing to the Registrar of the Board.
- 3.16 A person has the right to appeal to the District Court under section 147ZA(1)(a) of the Act against any decision of the Board to decline to register that person or to issue a licence to that person or to decline to renew the licence. An appeal must, under section 147ZB of the Act be brought within 20 working days of notice of the decision being given to the applicant.

## Schedules

### Legislation: Electricity Act 1992

#### 91 Entitlement to registration

An individual is entitled to be registered under this subpart if the individual satisfies the Board—

- (a) that he or she has complied with the application requirements in section 92; and
- (b) that he or she meets the applicable minimum standards for registration; and
- (c) that he or she is not precluded from being registered because of any action taken by the Board under section 147M; and
- (d) that he or she is a fit and proper person to be registered under this subpart; and
- (e) that he or she has paid the prescribed fee (if any)

## 99 Entitlement to practising licence

A registered person is entitled to be issued with a practising licence under this subpart for a class of registration in respect of which that person is registered if the individual satisfies the Board—

- (a) that he or she has complied with the application requirements in section 100; and
- (b) that he or she meets the current applicable minimum standards for registration; and
- (c) that he or she is not precluded from holding a licence because of any action taken by the Board under section 147M; and
- (d) that he or she is a fit and proper person to be issued with a practising licence; and
- (e) that he or she has paid the prescribed fee (if any).

## 106 Renewal of practising licence

- (1) A registered person is entitled to a renewal of his or her practising licence if the Board is satisfied that—
  - (a) the person has complied with the application requirements in section 105; and
  - (b) the person complies with the current applicable minimum standards for registration; and
  - (c) there is no reason to believe that the person has breached any term or condition of the licence during the period before the licence is renewed; and
  - (d) the person is a fit and proper person to hold a practising licence; and
  - (e) the person has satisfied the requirements of a competence programme that the person is required to complete under subsection (5).
- (2) If the Board is satisfied that the registered person is entitled to a renewal of his or her practising licence, the Board must direct the Registrar to
  - (a) renew the licence for the period (not exceeding 5 years) that the Board thinks fit; and
  - (b) send to the person notification of the Board's decision; and
  - (c) enter details of the renewal in the register.
- (3) If the Board is not satisfied that the registered person is entitled to a renewal of his or her practising licence, the Board must notify the person of—
  - (a) the Board's decision; and
  - (b) the person's right of appeal to a District Court against the decision.
- (4) For the purposes of subsection (1)(c), the Board may, if it thinks fit, disregard a breach of a term or condition of the practising licence.
- (5) The Board may require a registered person to complete a competence programme before it renews that person's practising licence (regardless of whether or not the Board is satisfied of the matters referred to in subsection (1)(a)to(d)) if the person is required to complete a competence programme when applying for a renewal of the licence in accordance with a condition or requirement imposed by a notice published under section 85.

- (6) Despite subsection (1), if any fee or other money payable to the Board under this Act by the registered person has not been paid, the Board may refuse to renew that person's practising licence until that fee or other money is paid.

#### 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:
- (a) any decision of the Board to decline to register the person or to decline to issue a licence to the person or to decline to renew the licence of the person

#### 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.