

# Review of the Electricity Act 1992

by the Electrical Workers Registration Board

Presented to the House of Representatives  
pursuant to section 158 of the  
Electricity Act 1992



Report on the review of the

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SAFETY | COMPETENCY | COMPLIANCE

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## 1. Introduction

- 1.1 Section 158 of the Electricity Act 1992 (the Act) requires the Electrical Workers Registration Board (the Board) to complete a review of the operation of the occupational regulation parts of the Act<sup>1</sup> every five years and to report its findings to the Minister for Building and Housing. As part of the review process, the Act requires the Board to consider whether any amendments to the Act are necessary or desirable.
- 1.2 The relevant parts of the Act under review came into force on 1 April 2010. This review is therefore timed to be presented five years since that date.
- 1.3 Within the scope of the legislation, it is the Board which has responsibility for determining the issues covered by the review, the manner in which the review is carried out and the contents of the report presented to the Minister.
- 1.4 The Board, in carrying out these statutory functions, has taken into account the Crown's broader objectives in implementing and maintaining a system for regulating electrical workers in New Zealand.
- 1.5 The Board's methodology in conducting the review is dealt with more fully in the annexures. In summary, though, the Board consulted widely, and drew on its own experience in administering its functions over the five years since the occupational amendments came into force.<sup>2</sup>

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<sup>1</sup> Part 1 and Parts 9 to 16 of the Act. Note the Electricity (Safety) Regulations 2010 are not within scope.

<sup>2</sup> Note the legislative provisions which are referred to in the report are contained in the annexures.

## 2. Executive Summary

2.1 The overall finding of the review was that the current occupational regime is fundamentally sound, but that there are some specific areas which can be improved upon. Specifically the Board formed the view that the following aspects are not operating as effectively as they could and legislative change could be beneficial. The areas for suggested change are noted in the order the Board considers would bring the greatest operational gains:

- (a) Infringement Offences – broadening the definition of an infringement offence to allow for low level disciplinary breaches to be dealt with by way of the infringement offence process and amending the current infringement offence process to remove the conflicting provisions between the complaints process and the infringement offence process and to extend the time frame within which an infringement offence must be dealt with;
- (b) Issuing Employer Licences – an amendment to allow the Board to have a discretion to issue employer licences to bring consistency to the way that licences are issued, both to individual practitioners and to those who apply for employer licences;
- (c) Disciplinary Provisions for Employer Licence Holders – an amendment to align the provisions relating to disciplinary action against holders of employer licences to those for registered individuals;
- (d) Disciplinary Provisions for Limited Certificate Holders – an amendment to bring limited certificates within the disciplinary provisions in Part 11 of the Act;
- (e) Discretion to Review an Investigator’s Decision – including provisions in the Act that allow the Board to seek an independent third party review of an investigator’s report; and
- (f) Bringing the Scheme into Disrepute – introducing provisions that allow for a disciplinary charge of bringing the scheme into disrepute.

### 3. Broadening the Definition of an Infringement Offence

#### Board's Recommendation

3.1 The Board recommends that:

- (a) an amendment to the Act be considered to allow for low level disciplinary breaches to be dealt with by way of the infringement offence process; and
- (b) the current infringement offence process be amended to remove the conflicting provisions between the complaints process and the infringement offence process and to extend the time frame within which an infringement offence must be dealt with.

#### Discussion

3.2 Infringement offences under the Act relate to a very narrow category of events. They are restricted to:

- failing to notify an accident;
- carrying out or assisting to carry out prescribed electrical work without authority; and
- employing a person to carry out prescribed electrical work when that person has no authority to undertake such work.

3.3 Since the 2010 amendments came into effect the Board has seen a large number of disciplinary offences which it believes might have been dealt with more efficiently as an infringement offence. These include:

- failing to provide a return (for example a certificate of compliance or an electrical safety certificate);
- providing a false or misleading return; and
- carrying out low risk prescribed electrical work contrary to any enactment.

3.4 The Board is of the view that the cost to the industry in bringing a disciplinary case against a practitioner in some of the above circumstances is disproportionate, given the low level of offending.

3.5 From a practitioner's perspective an infringement notice process for these types of low level offences would reduce the time frames involved in dealing with the breaches and

remove the requirement to deal with the matter before the Board, allowing for a more effective process.

- 3.6 A potential issue, should the current legislative provisions be extended, is that the Act imposes minimum fines for infringement offences which are greater than those which the Board would normally impose for disciplinary breaches of this type. Moreover a practitioner who wants to defend the charge must do so through the District Court, which potentially exposes them to more serious disciplinary outcomes. As such the Board recommends that, if low level offending was dealt with by way of an infringement offence, then the infringement penalties should be reduced. The Board also recommends that there should be an option to have the matter dealt with using the complaints process should the practitioner wish to defend it.
- 3.7 Given the above the Board would recommend that, rather than the current provisions simply being extended, new infringement offence provisions be developed to cover low level breaches of the Act.
- 3.8 It should be noted that the infringement provisions as they stand are not presently being used. There are two reasons for this: the first is that matters which are raised as complaints must be dealt with as a complaint and not as an infringement offence; and the second is the restrictive time frames which apply.
- 3.9 The current infringement provisions in the Act require that all complaints be referred to an investigator on receipt by the Registrar. Once a complaint has been referred it is then locked into the complaints process and is no longer able to be dealt with as an infringement offence. This effectively negates the ability to use the current infringement offence process except for matters which come to the Registrar's attention by means other than a complaint – especially given that nearly all disciplinary matters come to the Registrar's attention by way of complaints. Accordingly the Board recommends that the existing infringement offence process be amended to allow for the infringement path even when the matter is laid as a complaint.
- 3.10 The present time frame of 14 days within which to issue an infringement notice is impracticable (in most instances) when dealing with infringement offences. Prior to issuing the notice, the Registrar is required to carry out inquiries to verify that an offence has been

committed and decide whether an infringement notice is appropriate. A 28 day time frame is considered more appropriate.

### ***Submissions Received***

3.11 Submitters generally supported this proposal:

- some noted they required more information as to what would be included in the broadened provisions;
- a submitter in support of the proposal noted that this “would provide a more efficient and cost effective way of dealing with minor matters”;
- another submitted that it “agrees to an extension to low level offences, but should only apply to low level offences that are black and white in nature ... but must have right of reply”;
- other submitters noted that “if minor disciplinary offences were to be added to the current list of infringement offences, there would be a considerable watering down effect”; and
- with regards to the proposal in terms of the time frame, submitters noted that the “time period needs to be balanced with the need to resolve possible infringements in a reasonable time frame”.

## 4. Issuing Employer Licences

### Board's Recommendation

- 4.1 The Board recommends that the Act be amended to allow it to have a discretion to issue employer licences. This would bring a consistency to the way that licences are issued, both to individual practitioners and to those who apply for employer licences.

### Discussion

- 4.2 Employer licences enable the holders to carry out prescribed electrical work using any person (as opposed to registered and licensed persons), provided there is a system in place which ensures work is carried out safely and competently.
- 4.3 Under the Act, the Board must issue an employer licence if an approved person certifies that the applicant's system of operation complies with the legislative requirements. The Board can then impose conditions.
- 4.4 This approach is inconsistent with the registration and licensing requirements for individuals, which require the Board to consider applications prior to granting registration or licensing. The Board is of the view that the employer licence provisions should be consistent with the provisions for issuing licences for registered persons.
- 4.5 The Board notes that there are presently 35 employer licence holders. The majority of these held licences prior to the 2010 changes which removed the Board's discretion. Only a small number of new licences have been issued under the new provisions.
- 4.6 The Board's main concern is that whilst the increase in the number of licences has, to date, been minimal there are no restrictions on those numbers increasing dramatically. Nor are there restrictions preventing businesses that carry out or want to carry out prescribed electrical work using it as a means of circumventing the registration, licensing, competency and disciplinary processes which apply to those who are in their employ.
- 4.7 The Board's understanding of why employer licences were originally adopted was to allow organisations which were exempted under the legislation prior to 1992 being able to continue without the need to have registered/licensed persons in their employ and to allow other like organisations to apply. Typically these employers were engaged in "works" (work on transmission and distribution assets) or in specialist areas. The current provisions,

however, allow any organisation that wants to carry out any prescribed electrical work such as work on domestic dwellings to make use of an employer licence.

- 4.8 Should the Board be granted a discretion then it could ensure that employer licences are granted to appropriate organisations for appropriate reasons.

### ***Submissions***

- 4.9 The majority of submitters think this scheme should be abolished. Organisations working within the employer licence regime submitted that no changes were required. Submissions included:

- a submitter noted that (“the scheme”) has led to unskilled people doing shoddy non-compliant work, to save costs”;
- other submitters noted that they also see the scheme as a “form of restrictive trade”, and they “don’t agree with non-licensed persons carrying out electrical work”; and
- another submitter however noted that, in their opinion, “they are only aware of a few employer licensed locations and that they operate well without the interference of the Board”. Because of this view, they do not agree to a possible change to the clause and wish for it to be retained.

## 5. Disciplinary Provisions for Employer Licence Holders

### **Board's Recommendation**

- 5.1 The Board recommends that the provisions relating to disciplinary action that apply to employer licences be aligned to those that apply to registered individuals.

### **Discussion**

- 5.2 The process for dealing with registered individuals is set out in detail in the Act, and the Board has recourse to powers under the Commissions of Inquiry Act 1908 in respect of evidence and process. With regard to employer licence holders, however, the same provisions do not apply. This means the Board is fettered in dealing with complaints against employer licence holders by, for example, not being able to compel evidence or take evidence on oath, notwithstanding that the Board is able to fine an employer licence holder up to \$50,000 or cancel their licence. From the employer licence holder perspective there is little certainty as to the process they will face as it is not prescribed in the Act.
- 5.3 The Board is of the view that there is no clear policy justification for the difference in procedural requirements between the two types of licence holders and that the lack of process creates a risk of a breach of natural justice.

### ***Submissions Received***

- 5.4 Most submitters strongly supported introducing disciplinary provisions for employer licence holders. It was noted that through introducing these provisions consistency will be brought in for enforcing discipline throughout the regime. Those within the employer licence regime did not support the changes.

## 6. Disciplinary Provisions for Limited Certificate Holders

### Board's Recommendation

- 6.1 The Board recommends that limited certificate holders should come within the disciplinary provisions in Part 11 of the Act.

### Discussion

- 6.2 The Act outlines the restrictions on carrying out or assisting with prescribed electrical work and the persons who are exempt from this. Limited certificate holders (including trainees) are exempt.
- 6.3 The limited certification process has worked satisfactorily in authorising trainees to carry out all work that their supervisor is authorised to undertake. The exemption, however, excludes them from the disciplinary processes of the Act. It is the supervisor of a limited certificate holder that completes prescribed electrical work who is held responsible for the actions of the limited certificate holder.
- 6.4 Whilst this is appropriate in many cases the Board has experienced a number of complaints in relation to limited certificate holders where prescribed electrical work has been carried out without the knowledge of the supervisor, or the instructions of the supervisor have been wilfully ignored. In such circumstances the Board considers it would be more appropriate for the limited certificate holder to be held responsible. As the Act currently stands, however, the Board has no recourse against the limited certificate holder in such circumstances other than to cancel their certificate or to impose conditions on it. Cancellation would often be a disproportionate penalty and it is already a condition of all limited certificates that the holder only work under supervision<sup>3</sup>. As such an ability to have recourse to other disciplinary measures would be an effective way to ensure the correct person is held accountable whilst also ensuring a limited certificate holder is not lost to the industry as a result of their limited certificate being cancelled.

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<sup>3</sup> The Board has comprehensive supervision guidelines for limited certificate holders and their supervisors.

## ***Submissions Received***

6.5 This proposal had strong support from all those that submitted on it:

- one submitter noted that “limited certificate holders can bear responsibility for their wrong actions to the extent that the wrongs are done wilfully”;
- others noted that all persons (working under the Act) should be able to be disciplined;
- questions were raised as to why limited certificate holders were originally excluded from disciplinary provisions; and
- it was also noted that the Board would need to make it clear that the ability to take action against the trainee does not absolve a supervisor of their responsibilities.

## 7. Discretion to Review an Investigator's Decision

### Board's Recommendation

- 7.1 The Board recommends that provisions be included in the Act to allow the Board to seek an independent third party review of an investigator's report.

### Discussion

- 7.2 The Act provides that an investigation process must be followed when a complaint is laid. This results in an investigator being appointed who then makes a recommendation to the Board as to whether the matter should or should not proceed to a hearing. Currently, the Board must accept that recommendation. The Board has no discretion to review or overturn the investigator's report, which is appropriate in a prosecutorial model where the Board is the arbiter.
- 7.3 Other occupational licensing schemes do have a process whereby the recommendation of an investigator can be reviewed and accepted, rejected or modified. One example is the Building Practitioners Board, where the Registrar provides an informed opinion as to whether to proceed to a hearing but the decision ultimately lies with the Board. The building practitioner model is, however, an inquisitorial process.
- 7.4 Given the prosecutorial nature of the disciplinary provisions in Part 11 of the Act a review by the Board is not appropriate. Whilst noting that the new disciplinary process brought about by the 2010 changes has been a considerable improvement over the complaints assessment committee process, there have been instances when the Board has had cause to question an investigator's recommendation, but nevertheless has had to accept it. It is also noted that there is no recourse to question a recommendation where there is evidence of a potential bias or conflict (although this has not been the case to date).
- 7.5 Given the implications of a prosecution for the practitioner and the costs involved it is considered that an ability to review would be beneficial.

## ***Submissions Received***

7.6 This proposal received split opinions from submitters:

- one submitter noted that, given that the investigator has intimate knowledge of a case, they would hope that the Board was able to trust the person who has been appointed to that position;
- the same submitter suggested having “two investigators allocated to each case and have a joint opinion”;
- further to this, one submitter suggested that the findings of an investigator who has made diligent inquiry and ascertained all relevant facts should not be able to be rejected by the Board, but instead referred back to the investigator for further consideration;
- one party that supported the proposal noted that it would bring the Electricity Act in line with other legislation and regulations; and
- another also supported the inclusion of a provision for discretion for the Board on all complaints and investigation processes.

## 8. Bringing the Scheme into Disrepute

### Board's Recommendation

- 8.1 The Board recommends that provisions be introduced to allow for a disciplinary charge of bringing the scheme into disrepute.

### Discussion

- 8.2 Various occupational licensing schemes provide for a disciplinary offence of bringing a scheme into disrepute. Examples include the Building Act 2004 and the Plumbers, Gasfitters, and Drainlayers Act 2006.
- 8.3 Such an offence allows a licensing body to deal with conduct which, whilst not related to carrying out licensed work, reflects badly on the profession as a whole and could lower public perception of the profession. An example of such conduct would be disreputable or fraudulent trade practices.
- 8.4 The Board does note that the Act provides for consideration as to whether a person is “Fit and Proper”. Under these provisions the Board can refuse to license or to re-license if the criteria are not met. Action can only be taken at the time of licensing or re-licensing as opposed to at the time of any related conduct.
- 8.5 The Board also notes that refusal to license someone on the grounds that they are not a fit and proper person may not be the appropriate sanction in all cases. By comparison under the disciplinary provisions there are a range of disciplinary options which are open to the Board.

### Submissions Received

- 8.6 Mixed opinions were given on this topic:
- a number of submitters noted that more information was needed before they could make an informed decision as to whether to support this idea;
  - one submitter agreed that there is a need for the industry to be seen in a professional light by the public;
  - it was noted that submitters see merit in the Board being able to uphold the privilege of being licensed; and
  - one organisation submitted that it “should not be the duty of a government body to be the watchdog of industry reputation”.

## 9. Contractor Licences

### **Board's Recommendation**

- 9.1 The Board recommends that further investigation into the merits of contractor licences be undertaken as part of a wider review of occupational licensing.

### **Discussion**

- 9.2 Contractor licences are required in all Australian states and territories but not in New Zealand. They are issued to electrical contractors (i.e. the individual or business entity who enters into the contract to undertake work), rather than to the practitioner carrying out the prescribed electrical work. They include requirements which are aimed at ensuring good business practices.
- 9.3 The Board's experience is that a large proportion of complaints are laid as a result of, or as part of, commercial disputes. The introduction of contractor licences could potentially alleviate this issue by requiring an increased business acumen and the demonstration of good business practices.
- 9.4 The Board also hears a number of complaints where licensed persons have knowingly carried out prescribed electrical work which is contrary to the legislative provisions, under the instructions of their employer. This places undue stress on an individual practitioner as to whether to protect their employment position or breach the terms of their licence. The Board has no jurisdiction over the employer who has issued the instructions, unless the employer is a registered person or a holder of an employer licence and the work was done under the employer's supervision. A contractor licence could provide the opportunity to hold the employer responsible in such circumstances.

### ***Submissions Received***

- 9.5 The proposal of introducing contractor licences had low-level interest among submitters:
- most of those who made submissions on this proposal noted that employees ideally need to stand up for themselves and allow employers to take responsibility; and
  - one submitter noted the introduction of contractor licences would be outside the scope of the Board's function and role.

## 10. Registration and Licensing

### Board's Recommendation

- 10.1 The Board does not recommend any changes to the dual registration/licensing regime but notes that it could be considered as part of a wider review of occupational licensing.

### Discussion

- 10.2 The Act provides for registration as a prerequisite for issuing a practising licence. Registration continues until the person's name is removed from the register. This contrasts with a licence, which is issued for a set period or until the licence is cancelled, suspended or not renewed by the holder.
- 10.3 Prior to the 2006 amendments the dual system was required as there were exemptions for registered persons to carry out prescribed electrical work. Those exemptions were removed with the amendments which came into effect in 2010 and, as such, the dual system is no longer necessary from a statutory stand point.
- 10.4 It is noted that registered persons are subject to the Board's disciplinary provisions even if they are not licensed. If the dual system ceased to exist, a person who is eligible for licensing but does not hold a current licence at the time of carrying out prescribed electrical work would commit a criminal offence that would be dealt with by the District Court as opposed to a disciplinary offence which is the present situation.
- 10.5 The Board also notes that under the present system there is a potential risk for consumer confusion as to whether a practitioner is authorised to carry out work if registered but not licensed. Anecdotal evidence suggests that it is not unusual for the public to not appreciate the difference between a registered electrician and a licensed electrician, and to believe that a registered person is authorised to carry out prescribed electrical work, which may not be the case.

## **Submissions**

10.6 There was very little support amongst submitters for changing the dual registration and licensing system:

- concerns were raised by a number of submitters that older electricians would lose their status in that these practitioners were led to believe that registration was lifelong, unless removed for misconduct;
- submitters noted that “registration must continue as it is the most efficient way to ascertain electrical qualifications”;
- submitters felt the confusion amongst consumers arises from the lack of publicity on how the system works and where to get advice;
- they also noted that there is a reluctance on the part of consumers to take a due diligence approach when engaging the trades; and
- one submitter gave the opinion that if the dual system was to be discontinued, that a ‘sinking lid’ policy be put in place. This would allow for the gradual phasing out of the dual system and would ensure that new practitioners follow the one system.

## 11. Other Matters

11.1 Within the discussion document released by the Board, there was also a section entitled Other Matters. These were limited to aspects of the operation of Part 1 or Parts 9 to 16 of the Act, where the submitter considers that change is necessary or desirable. The majority of submitters did not have further comments to be considered in the review. Of those that did so, a wide range of issues were raised which included<sup>4</sup>:

- a submission was made in relation to the Board's Fit and Proper Person Policy, which was taken into consideration as part of a review of the policy;
- support for the Board for encouraging discussions with key stakeholders, and a suggestion that the Board should be looking at ways to future-proof the profession through expanding the knowledge base of practitioners in the new technologies that are being introduced; and
- submissions showing support for and raising implementation issues around the introducing of photographs on identification cards, which were addressed by the Board as part of the current licensing round.

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<sup>4</sup> Submissions received which did not relate to the Review of the Act or to the operation of the Act have not been included.

## Annexures

### Board's Review Process

Terms of Reference were drafted and agreed to by the Board. These set out the parts of the Act which were within scope and provided guidelines for the approach to be taken and resources required. The document also referred to the enabling legislation, noting the obligations of the Board whilst carrying out the review.

Time frames were set out and agreed to, with major milestones and stakeholders noted. Key stakeholders were grouped into five categories; industry stakeholders, training stakeholders, internal stakeholders, government stakeholders and consumer stakeholders.

At an early stage of the review, 40 practitioners were rung and asked a number of basic, open-ended questions about the operation of the occupational regulation parts of the Act, and about the Board's role and performance in regulating electrical workers. The aim was not to provide a statistically relevant survey of the licensed electrical worker population. Rather, it was to gain an insight into the experiences of a sample of electrical workers drawn from a full range of ages, licence classes and locations throughout New Zealand, and to help form a picture of the current state from a practitioner's point of view.

Responses from the practitioners helped the Board in identifying the main areas of interest to practitioners. Although there were a number of comments and suggestions for improvement, the responses reinforced the Board's preliminary view that, in general, the regime is fundamentally a sound one, which would benefit from some adjustments, but does not require a full overhaul.

A literature review was undertaken, which involved an environmental scan of other similar jurisdictions. The review looked at schemes relating to electrical workers in Australia, Canada, and the United Kingdom, and noted any features within the legislation, the identity of the relevant regulator (whether within government, or via an independent body), and outlined the relevant licensing and registration requirements.

Domestic industry discipline models within bodies similar to the Board were included within the review. Regimes that were researched included the New Zealand Health Practitioners Disciplinary Tribunal, New Zealand Institute of Chartered Accountants Disciplinary Tribunal, Institution of Professional Engineers New Zealand and the New Zealand Teachers Council.

Taking into the consideration the previous work done through the phone calls to practitioners and calling on the Board's collective knowledge and experience in working with the legislation, a section-by-section analysis of the Act was undertaken. This analysis allowed for the identification of key issues, which were then agreed to by the Board.

The Board, with help from Ministry officials and the Registrar, drafted and released an issues document for consultation. A targeted release took place, with key stakeholders previously identified in the terms of reference being sent a copy directly. Following this, a wider release was carried out via the Electrical Workers website and through the *Electron* newsletter which is sent to approximately 40,000 registered persons.

Following the release of the issues document, the Board held a workshop in Wellington prior to the closing date for oral submissions to be heard. Key stakeholders were involved, allowing for discussions to be held with the Board for clarification purposes, prior to submitting written submissions.

After the closing date for submissions, the Ministry collated submissions in a table format, which was then presented to the Board for the purpose of consideration of the submissions received. This was to allow the Board to develop a view on the submissions.

Throughout the process, the Board has been provided with technical assistance from the Registrar and Ministry officials. That assistance has in no way influenced the Board in identifying and making recommendations on the issues. The Ministry has been kept informed of the progress of the review throughout the process.

The Board has formed its own views from the intimate knowledge and experience of its members in working with the Act.

### Consultation Process

The consultation process was designed to be deep and wide, in order to solicit as many submissions as possible from key stakeholders and practitioners. For ease of use issues were laid out in the order in which they appeared within the Act.

The workshops held by the Board for oral submissions were attended by five key stakeholders and their representatives (listed below). The workshops were held prior to the deadline for written submissions to allow attendees to discuss issues with Board representatives for clarification prior to making their written submissions. Written submissions were received from 18 interested parties (listed below).

Stakeholder Meetings	Submitters	
Electricity Engineers Association Electrical Contractors Association New Zealand Electrical Training Company Electro-Tech Education Centre Energy Safety	Cameron Electrical	The Skills Organisation
	Electrical Contractors Association New Zealand	Unison
	Robert King	New Zealand Defence Force
	Electricity Engineers Association	WEL Networks
	Alan McArdle	MNZ Electrical Inspectors
	Peter MacMillan	Inspection Services
	Warwick Ferguson	Waikato
	Alan Minty	Homersham Ltd
	Greg Silcock	Anonymous
	Simon Thomas	

## Electricity Act 1992 Act Provisions Referred to

Note the provisions appear in the order they are dealt with in the report.

### Broadening the Definition of an Infringement Offence

#### Part 1 – Preliminary Provisions

##### 2 Interpretation

**infringement offence** means—

- (a) an offence against section 20(d), 162, or 163:
- (b) a breach of any regulation made under this Act that is prescribed as an infringement offence

#### Part 14 – Miscellaneous Provisions

##### 165A **infringement offence** means—

- (a) an offence against section 20(d), 162, or 163:
- (b) a breach of any regulation made under this Act that is prescribed as an infringement offence

### Disciplinary provisions for Limited Certificate Holders

#### Part 9 – Restrictions on electrical work

##### 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.
- (2) The following persons may do prescribed electrical work, or assist in doing prescribed electrical work, within the limits prescribed in regulations (if any):
  - (a) A registered person who is authorised to do, or assist in doing, the work under a current practising licence:
  - (b) A person who is authorised to do, or assist in doing, the work under a provisional licence:
  - (c) A person who is authorised to do, or assist in doing, the work under an employer licence.
- (3) A person does not do any prescribed electrical work, or assist in doing any prescribed electrical work, in breach of this section if that work is done in accordance with any of sections 75 to 80.
- (4) A body corporate that is responsible for any prescribed electrical work does not do any prescribed electrical work, or assist in doing any prescribed electrical work, in breach of this section if the natural person or natural persons who actually do, or assist in doing, that work are authorised to do so under this Act.
- (5) Subsection (1) is subject to subsections (3) and (4) and sections 75 to 81.
- (6) For the purposes of this Part and Part 10, **regulations** means regulations made under section 169.

### Issuing Employer Licences

#### Part 10 – Subpart 2 – Employer Licences

##### 115 **Employer licence**

- (1) A person is, on application in the prescribed form (if any) and on payment of the prescribed fee (if any), entitled to be issued with an employer licence by the Board if the person satisfies the Board that the person will at all times maintain a system of operation—

- (a) that complies with the requirements that are prescribed by regulations; and
- (b) that is sufficient to ensure that employees of that person who do, or assist in doing, prescribed electrical work—
  - (i) are competent to carry out the range of work for which they are employed; and
  - (ii) receive the supervision and training that is necessary to ensure that the work—
    - (A) is carried out safely and competently; and
    - (B) complies with the requirements of this Act and any regulations.
- (2) However, a person is not entitled to be issued with an employer licence if the person is precluded from holding an employer licence because of any action taken by the Board under section 120.
- (3) The Board may impose in respect of any employer licence issued under this section any terms and conditions that the Board thinks fit (for example, by restricting the types of prescribed electrical work that may otherwise be done under the licence).

## Disciplinary Provisions for Employer Licence Holders

### Part 10 – Subpart 2 – Employer Licences

#### 120 Cancellation, suspension, and other actions in relation to employer licences

- (1) The Board may (in relation to a matter raised by a complaint or by its own inquiries) take any of the actions referred to in subsection (2) in relation to an employer licence if it is satisfied that the employer licence holder—
  - (a) Obtained the licence by making a false or misleading representation or declaration (whether oral or written); or
  - (b) Was not entitled to be issued with an employer licence; or
  - (c) No longer meets all the requirements for the issue of an employer licence; or
  - (d) Has failed to comply with any term or condition imposed by the Board in respect of that licence; or
  - (e) Has failed to ensure that the prescribed electrical work done by employees of that person—
    - (i) Is at all times carried out safely and competently; and
    - (ii) Complies with the requirements of this Act and any regulations.
- (2) In any case to which subsection (1) applies, the Board may—
  - (a) Do both of the following things:
    - (i) Order that the employer licence be cancelled; and
    - (ii) Order that the employer licence holder may not apply to be issued with an employer licence before the expiry of a specified period:
  - (b) order that the employer licence be suspended—
    - (i) For any period that the Board thinks fit; or
    - (ii) Until the employer licence holder does any things that the Board may specify (for example, reviewing and improving safety procedures):
  - (c) order that the employer licence be restricted, for any period that the Board thinks fit, by limiting the prescribed electrical work that the employer licence holder may authorise an employee to do, or assist in doing, to the work that the Board may specify, and in imposing a limitation of this type

the Board may also impose limitations on the circumstances in which an employee may do, or assist in doing, that work:

- (d) Order the employer licence holder to pay a fine not exceeding \$50,000:
  - (e) Order that the employer licence holder be censured:
  - (f) Make no order under this subsection.
- (3) The Board may take only 1 type of action in subsection (2) in relation to a case, except that it may impose a fine under subsection (2)(d) in addition to taking the action under subsection (2)(b), (c), or (e).
  - (4) No fine may be imposed under subsection (2) (d) 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 may take an action under this section whether or not the person is still an employer licence holder.

## Discretion to Review Investigators' Decisions

### Part 12 – Appeals

#### 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 a 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:
  - (b) Any decision of the Board to decline to issue a limited certificate under section 78 to the person or to decline to renew the limited certificate of the person:
  - (c) Any decision of the Board to suspend or cancel the person's registration or licence:
  - (d) Any decision of the Board to impose any term or condition in relation to the person's registration or licence or to vary any of those terms or conditions:
  - (e) any decision, direction, or order under any of sections 108, 109, 120, 133, 137, and 153 or Part 11 (except section 147C).
- (2) For the purposes of this Part, any decision of the Plumbers, Gasfitters, and Drainlayers Board acting under this Act must be treated as a decision of the Board.
- (3) Subsection (1) does not confer a right to appeal against a decision under any of sections 84 to 90.

## Bringing the Scheme into Disrepute

### Part 11 – Disciplinary Provisions

#### 143 Disciplinary offence

For the purposes of this Part, a person to whom this Part applies is guilty of a disciplinary offence if that person is found, in any proceedings under this Part, or in any appeal under Part 12,—

- (a) To have carried out or caused to be carried out prescribed electrical work—
  - (i) In a negligent or incompetent manner; or

- (ii) in a manner contrary to any enactment relating to electrical supply or prescribed electrical work that was in force at the time the work was done; or
- (b) to have intentionally or negligently created a risk of serious harm to any person, or a risk of significant property damage, through—
  - (i) Having used or caused to be used faulty or improper fittings; or
  - (ii) Having carried out or caused to be carried out any prescribed electrical work; or
- (c) To have failed to have complied with a term or condition of the person's registration or licence; or
- (d) to have done prescribed electrical work that, under the terms of any restriction or limitation that applies to the prescribed electrical work that the person may do, the person is not authorised to do; or
- (e) To have intentionally deceived or attempted to deceive any registered person who is authorised to test and certify prescribed electrical work by—
  - (i) Purposely concealing inferior work or inferior fittings used as part of any works or electrical installation; or
  - (ii) Making any false or misleading statement (whether in writing or not) to that person; or
- (f) to have failed to provide any return required under any enactment relating to prescribed electrical work or to have provided a false or misleading return; or
- (g) To have employed, directed, or permitted any unauthorised person to do any prescribed electrical work.

## Registration and Licensing

### *Part 10 – Registration and Licensing of electrical workers and employer licences*

#### **87 Principles guiding prescribing of registration and licensing matters**

In prescribing matters under section 84 or 85, the Board must be guided by the following principles:

- (a) the matters must be necessary to—
  - (i) protect the health or safety of members of the public; or
  - (ii) promote the prevention of damage to property; or
  - (iii) promote the competency of persons who do, or assist in doing, prescribed electrical work; or
  - (iv) carry out, give effect to, or provide for a matter that is incidental to, or consequential on, the matters relating to subparagraph (i), (ii), or (iii); and
- (b) the matters may not unnecessarily restrict the registration or licensing of persons as electrical workers; and
- (c) the matters may not impose undue costs on electrical workers or on the public.



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