

Before the Electrical Workers Registration Board

CE No. 22646

In the matter of:

A disciplinary hearing before the Electrical Workers Registration Board

Between:

The Ministry of Business Innovation and Employment

And

Iro Ezekiel, a registered and licensed electrical worker (LMD 271052, EW113327, Line Mechanic Distribution) (the Respondent)

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

Hearing Location:

Auckland

Hearing Type:

In Person

Hearing and Decision Date:

21 March 2024

Board Members Present:

Mr R Keys, Registered Inspector (Presiding)

Ms A Yan, Registered Electrical Engineer

Mr M Orange, Barrister

Ms S Cameron, Registered Electrician

Mr T Wiseman, Registered Inspector

Mr J Hutton, Registered Inspector

Appearances:

J Hilario for the Investigator

Procedure:

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

Board Decision:

The Respondent **has** committed a disciplinary offence under section 143(b)(ii) of the Act.

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Summary of the Board’s Decision

[1] The Respondent negligently created a risk of serious harm or significant property damage when he transposed a phase and neutral conductor when connecting a service main. The Respondent was fined \$2,000 and ordered to pay costs of \$250. The fine and costs were reduced on the basis that the Respondent accepted his wrongdoing and cooperated. A summary of the matter will be published in the Electron, and the Respondent will be named in it and in the Board’s decision. A record of the offending will be recorded on the public Register for a period of three years.

Introduction

[2] The hearing resulted from a complaint about the conduct of the Respondent and a report under section 147G(1) of the Act from the Investigator that the complaint should be considered by the Board.

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

1. On or around 23 June 2022 at [Omitted], Mr Iro Ezekiela has carried out or caused to be carried out prescribed electrical work in a manner contrary to any enactment relating to prescribed electrical work that was in force at the time the work was done being an offence under section 143(a)(ii) of the Act, IN THAT, he:

- a) Transposed the phase and neutral conductors while carrying out the connection; and/or
- b) Failed to carry out adequate testing to identify the transposition.

In breach of 13(1) and 20(2) of the Electricity (Safety) Regulations 2010.

Or in the Alternative

- 2. On or around 23 June 2022 at [Omitted], Mr Iro Ezekielia has carried out or caused to be carried out prescribed electrical work in a negligent or incompetent manner being an offence under section 143(a)(i) of the Act, IN THAT, he:
 - a) Transposed the phase and neutral conductors while carrying out the connection; and/or
 - b) He failed to carry out adequate testing to identify the transposition.

Or in the Alternative

- 3. On or around 23 June 2022 at [Omitted], Mr Iro Ezekielia has negligently created a risk of serious harm to any person, or a risk of significant property damage, through having carried out or caused to be carried out prescribed electrical work being an offence under section 143(b)(ii) of the Act, IN THAT, he:
 - a) Transposed the phase and neutral conductors while carrying out the connection; and/or
 - b) Failed to carry out adequate testing to identify the transposition.

[4] The Investigator's report incorrectly noted the property address as [Omitted], and the Notice of Proceeding was issued under that address. Counsel sought an amendment to the Notice of Proceeding at the hearing to [Omitted], the correct address. The Respondent did not object, and the Board was satisfied that the Respondent had, through other documentation provided to him, been given fair notice of the address at which the events occurred. The amendment was granted under section 156A of the Act.

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

Function of Disciplinary Action

[6] The common understanding of the purpose of professional discipline is to uphold the integrity of the profession. The focus is not punishment, but the protection of the public, the maintenance of public confidence and the enforcement of high standards of propriety and professional conduct. Those purposes were recently reiterated by

the Supreme Court of the United Kingdom in *R v Institute of Chartered Accountants in England and Wales*¹ and in New Zealand in *Dentice v Valuers Registration Board*².

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

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

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

Procedure

- [9] The matter proceeded on the basis of an Agreed Statement of Facts (ASoF).

Evidence

- [10] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed⁴. The Board notes, as regards evidence in proceedings before it, that the provisions of section 147W of the Act apply. This section states:

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

- [11] The Board heard from the Respondent prior to making a decision.
- [12] The ASoF set out that the Respondent, a Line Mechanic, undertook the reconnection of a service main cable to an installation. When carrying out the reconnection, the Respondent transposed the phase and neutral conductors, and he failed to carry out adequate testing to identify the transposition.
- [13] The Investigator engaged Mr David Olsen to provide a technical review of the prescribed electrical work (PEW). His review resulted in the allegations laid by the Investigator. He noted that PEW breached regulation 20(2)(b) of the Safety Regulations and that he had failed to complete a testing procedure and adequate electrical testing before connecting and or reconnecting existing works to a power

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

² [1992] 1 NZLR 720 at p 724

³ [2016] HZHC 2276 at para 164

⁴ *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

supply and to ensure the PEW was electrically safe, in breach of regulation 13(1) of Safety Regulations.

- [14] The Respondent accepted that he had transposed the phase and neutral conductors while carrying out the PEW and that he had failed to carry out adequate testing to identify the transposition.
- [15] At the hearing, the Respondent stated that his other jobs had been checked, and there were no issues with them. He outlined that he had completed remedial training with his employer, and the trainer, an Electrical Inspector, had passed him as competent. He also stated that he had learnt from the events and that he had adopted different on-site processes, including having a second person check the connections.
- [16] The Investigator and the Respondent agreed that the Respondent's conduct met the threshold of negligently creating a risk of serious harm to any persons or a risk of serious property damage under section 143(b)(ii) of the Act.
- [17] The Investigator noted that the Respondent had cooperated with the Investigator and that he acknowledged that he was remorseful.
- [18] The general rule is that all facts in issue, or relevant to the issue in a case, must be proved by evidence. As the Investigator and Respondent agreed to the facts as outlined above, it was not necessary to call any further evidence or to test the evidence as outlined in the Statement.

First Offence

- [19] The charges put before the Board were laid in the alternatives of negligently creating a risk of serious harm to any person or a risk of significant property damage under section 143(b)(ii) and, as alternatives, negligence or incompetence under section 143(a)(i) and contrary to an enactment under section 143(a)(ii).
- [20] There is a hierarchy to the disciplinary charges in that the Board needs to first consider whether the prescribed electrical work was carried out or caused to be carried out in a manner that was contrary to an enactment. If the Board finds in the affirmative, it then needs to consider whether the conduct reaches the threshold for a finding of negligence or incompetence. If that threshold is met, the Board then needs to consider whether a risk of serious harm or significant property damage was created.
- [21] Contrary to an enactment is a form of strict liability offence in that all that has to be proven is that the relevant enactment has been breached – in the instance the Electricity (Safety) Regulations 2010 or any of the cited standards within Schedule 2 of the Regulations. The Board does not need to find that there was intention, fault or negligence⁵.

⁵ *Blewman v Wilkinson* [1979] 2 NZLR 208

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

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

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

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

[25] The New Zealand Courts have stated that an assessment of negligence and/or incompetence in a disciplinary context is a two-stage test¹⁰. The first is for the Board to consider whether the practitioner has departed from the acceptable standard of conduct of a professional. The second is to consider whether the departure is significant enough to warrant a disciplinary sanction.

[26] When considering what an acceptable standard is, the Board must have reference to the conduct of other competent and responsible practitioners and the Board’s own assessment of what is appropriate conduct, bearing in mind the purpose of the Act,¹¹ which includes protecting the health and safety of members of the public in connection with the supply and use of electricity, and promoting the prevention of damage to property in connection with the supply and use of electricity. The test is an objective one and, in this respect, it has been noted that the purpose of discipline is the protection of the public by the maintenance of professional standards and that this could not be met if, in every case, the Board was required to take into account subjective considerations relating to the practitioner¹².

[27] The Board also notes, as regards acceptable standards, that all prescribed electrical work must comply with the Electricity (Safety) Regulation 2010 and the cited Standards and Codes of Practice in Schedule 2 of the Regulations. As such, when

⁶ Judge McElrea, DC Whangarei, CIV-2011-088-313

⁷ *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582

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

⁹ *Ali v Kumar and Others* [2017] NZDC 23582 at [30]

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

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

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

considering what is and is not an acceptable standard, they must be taken into account.

- [28] Turning to seriousness in *Collie v Nursing Council of New Zealand*,¹³ the Court noted, as regards the threshold for disciplinary matters, that:

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

- [29] With respect to a risk of serious harm or significant property damage, serious harm is defined in section 2 of the Act. It means:

death; or

injury that consists of or includes loss of consciousness; or

a notifiable injury or illness as defined in section 23 of the Health and Safety at Work Act 2015.

- [30] Significant property damage is not defined in the Act. Section 16(1)(b)(ii) of the Act, which relates to notification of accidents, also refers to serious harm and to property damage. In respect of damage, it requires notification where there is:

damage to any place or part of a place that renders that place or that part of that place unusable for any purpose for which it was used or designed to be used before that accident.

- [31] As section 16 refers to both serious harm and damage, the Board considers significant property damage in section 143(b)(ii) should be interpreted in line with the definition in section 16(1)(b)(ii).

- [32] Actual serious harm or significant property damage need not occur. There need only be a risk that either might occur. The risk must be real in that there needs to be a material or substantial possibility, chance or likelihood that serious harm or significant property damage will occur. A real risk has also been described as one that a reasonable person would not brush aside as being far-fetched or fanciful¹⁴.

Contrary to an Enactment

- [33] The Respondent caused a transposition. That meant, his prescribed electrical work was unsafe and that regulation 13 of the Safety Regulations had been breached. It states:

13 Doing work on works, installations, fittings, and appliances

¹³ [2001] NZAR 74

¹⁴ Overseas Tankship (UK) Ltd v Miller Steamship Co Pty Ltd (The Wagon Mound No 2) [1967] 1 AC 617

- (1) *A person who does work on any works or installation, or on any part of any works or installation, must ensure—*
- (a) *that the resulting works or installation, or part of the works or installation, is electrically safe; and*
- (b) *if the work is on only part of any works or installation, that the work has not adversely affected the electrical safety of the rest of the works or installation.*

[34] The terms electrically safe and unsafe are defined in regulation 5 of the Safety Regulations:

5 Meanings of electrically safe and electrically unsafe

In these regulations, unless the context otherwise requires—

electrically safe means, in relation to works, installations, fittings, appliances, and associated equipment, that there is no significant risk that a person or property will be injured or damaged by dangers arising, directly or indirectly, from the use of, or passage of electricity through, the works, installations, fittings, appliances, or associated equipment

electrically unsafe means, in relation to works, installations, fittings, appliances, and associated equipment, that there is a significant risk that a person may suffer serious harm, or that property may suffer significant damage, as a result of dangers arising, directly or indirectly, from the use of, or passage of electricity through, the works, installations, fittings, appliances, or associated equipment.

[35] A transposition creates a significant risk that persons might get an electric shock, and, in this matter, persons were receiving minor shocks. It follows that regulation 13 has been breached.

Negligence

[36] The transgression was, however, more serious than just being contrary to an enactment. As such, the Board has found that the Respondent had been negligent in that he had carried out prescribed electrical work in a manner that was not in accordance with the standards to be expected of an electrical worker and that the transgressions were sufficiently serious enough to warrant a disciplinary finding of negligence.

Risk of Serious Harm

[37] Having made a finding of negligence, the Board considered whether the elements of an offence under section 143(b)(ii) of the Act had been satisfied. Having already established that he had been negligent, the Board considered whether the Respondent had created a risk of serious harm or significant property damage. As

noted, the transposition created a risk of electrocution, which can cause serious harm. It follows that the Respondent has committed the offence.

Board's Decision

[38] The Board has decided that the Respondent **has** negligently created a risk of serious harm contrary to section 143(b)(ii) of the Act.

Penalty, Costs and Publication

[39] Having found that one or more of the grounds in section 143 applies, the Board must, under section 147M of the Act¹, consider the appropriate disciplinary penalty, whether the Respondent should be ordered to pay any costs and whether the decision should be published.

[40] The Respondent made submissions at the hearing as regards penalty, costs and publication.

Penalty

[41] The Board has the discretion to impose a range of penalties, which are set out in section 147M of the Act. Exercising that discretion and determining the appropriate penalty requires that the Board balance various factors, including the seriousness of the conduct and any mitigating or aggravating factors present.¹⁵ It is not a formulaic exercise, but there are established underlying principles that the Board should take into consideration. They include:¹⁶

- (a) protection of the public and consideration of the purposes of the Act;¹⁷
- (b) deterring other Electrical Workers from similar offending;¹⁸
- (c) setting and enforcing a high standard of conduct for the industry;¹⁹
- (d) penalising wrongdoing;²⁰ and
- (e) rehabilitation (where appropriate).²¹

[42] Overall, the Board should assess the conduct against the range of penalty options available in section 318 of the Act, reserving the maximum penalty for the worst cases²² and applying the least restrictive penalty available for the particular offending.²³ In all, the Board should be looking to impose a fair, reasonable, and

¹⁵ *Ellis v Auckland Standards Committee* 5 [2019] NZHC 1384 at [21]; cited with approval in *National Standards Committee (No1) of the New Zealand Law Society v Gardiner-Hopkins* [2022] NZHC 1709 at [48]

¹⁶ Cited with approval in *Robinson v Complaints Assessment Committee of Teaching Council of Aotearoa New Zealand* [2022] NZCA 350 at [28] and [29]

¹⁷ Section 3 Building Act

¹⁸ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

¹⁹ *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) at 724

²⁰ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

²¹ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354; *Shousha v A Professional Conduct Committee* [2022] NZHC 1457

²² *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

²³ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818

proportionate penalty²⁴ that is consistent with other penalties imposed by the Board for comparable offending.²⁵

[43] In general, when determining the appropriate penalty, the Board adopts a starting point based on the principles outlined above prior to it considering any aggravating and/or mitigating factors present.²⁶

[44] The Board adopted a starting point of a fine of \$4,000, an amount that is consistent with other penalties imposed by the Board for similar offences. The Board took into account that the Respondent had cooperated, accepted his wrongdoing, and had undertaken and passed a course of remedial training. The fine was reduced to \$2,000.

Costs

[45] Under section 147N of the Act, the Board may require the Respondent to pay the Board any sum that it considers just and reasonable towards the costs and expenses of, and incidental to the investigation, prosecution and the hearing.

[46] The Respondent should note that the High Court has held that 50% of total reasonable costs should be taken as a starting point in disciplinary proceedings and that the percentage can then be adjusted up or down having regard to the particular circumstances of each case.²⁷

[47] In *Collie v Nursing Council of New Zealand*,²⁸ where the order for costs in the tribunal was 50% of actual costs and expenses, the High Court noted that:

But for an order for costs made against a practitioner, the profession is left to carry the financial burden of the disciplinary proceedings, and as a matter of policy that is not appropriate.

[48] In *Kenneth Michael Daniels v Complaints Committee 2 of the Wellington District Law Society*,²⁹ the High Court noted:

[46] All cases referred to in Cooray were medical cases and the Judge was careful to note that the 50 per cent was the general approach that the Medical Council took. We do not accept that if there was any such approach, it is necessarily to be taken in proceedings involving other disciplinary bodies. Much will depend upon the time involved, actual expenses incurred, attitude of the practitioner bearing in mind that whilst the cost of a disciplinary action by a professional body must be something of a burden imposed upon its

²⁴ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

²⁵ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

²⁶ In *Lochhead v Ministry of Business Innovation and Employment* 3 November [2016] NZDC 21288 the District Court recommended that the Board adopt the approach set out in the Sentencing Act 2002.

²⁷ *Cooray v The Preliminary Proceedings Committee* HC, Wellington, AP23/94, 14 September 1995, *Macdonald v Professional Conduct Committee*, HC, Auckland, CIV 2009-404-1516, 10 July 2009, *Owen v Wynyard* HC, Auckland, CIV-2009-404-005245, 25 February 2010.

²⁸ [2001] NZAR 74

²⁹ CIV-2011-485-000227 8 August 2011

members, those members should not be expected to bear too large a measure where a practitioner is shown to be guilty of serious misconduct.

[47] Costs orders made in proceedings involving law practitioners are not to be determined by any mathematical approach. In some cases 50 per cent will be too high, in others insufficient.

[49] The Board has adopted an approach to costs that uses a scale based on 50% of the average costs of different categories of hearings: simple, moderate and complex. The current matter was simple. Adjustments based on the High Court decisions above are then made.

[50] Based on the above, the Board's costs order is that the Respondent is to pay the sum of \$250 toward the costs of and incidental to the matter. In setting costs, the Board took into account that the Respondent had agreed to the matter proceeding by way of an Agreed Statement of Facts.

Publication

[51] As a consequence of its decision, the Respondent's name and the disciplinary outcomes will be recorded in the public register as required by the Act³⁰. The Board can, pursuant to section 147Z of the Act, also order publication over and above the public register notation. Under section 147Z, the Board may, if no appeal is brought within 20 working days of its decision, direct the Registrar to cause a notice stating the effect of the decision or order, the reasons for the decision or order, and (unless the Board directs otherwise) the name of the person in respect of whom the decision or order was made, to be published in the Gazette and any other publications as may be directed by the Board.

[52] As a general principle, such further public notification may be required where the Board perceives a need for the public and/or the profession to know of the findings of a disciplinary hearing. This is in addition to the Respondent being named in this decision.

[53] Within New Zealand, there is a principle of open justice and open reporting which is enshrined in the Bill of Rights Act 1990³¹. The Criminal Procedure Act 2011 sets out grounds for suppression within the criminal jurisdiction³². Within the disciplinary hearing jurisdiction, the courts have stated that the provisions in the Criminal Procedure Act do not apply but can be instructive³³. The High Court provided guidance as to the types of factors to be taken into consideration in *N v Professional Conduct Committee of Medical Council*³⁴.

³⁰ Refer sections 128 of the Act

³¹ Section 14 of the Act

³² Refer sections 200 and 202 of the Criminal Procedure Act

³³ *N v Professional Conduct Committee of Medical Council* [2014] NZAR 350

³⁴ *ibid*

- [54] The courts have also stated that an adverse finding in a disciplinary case usually requires that the name of the practitioner be published in the public interest³⁵. It is, however, common practice in disciplinary proceedings to protect the names of other persons involved, as naming them does not assist the public interest.
- [55] Based on the above, the Board will publish a general article in the Electron summarising the matter but will not order further publication. The Respondent will be identified in the Electron.

Penalty, Costs and Publication Orders

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

Penalty: Pursuant to section 147M(1)(f) of the Electricity Act 1992, the Respondent is ordered to pay a fine of \$2,000.

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

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

The Respondent will be named in this decision, which will be publicly available on the Board's website.

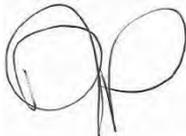
A summary of the matter will be published by way of an article in the Electron, which will focus on the lessons to be learnt from the case. The Respondent will be named in the publication.

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

Right of Appeal

- [58] The right to appeal Board decisions is provided for in sections 147ZA and 147ZB of the Actⁱⁱ.

Signed and dated this 15th day of April 2024



R Keys
Presiding Member

³⁵ Kewene v Professional Conduct Committee of the Dental Council [2013] NZAR 1055

ⁱ Section 147M of the Act

- (1) If the Board, after conducting a hearing, is satisfied that a person to whom this Part applies is guilty of a disciplinary offence, the Board may—
- (a) do 1 or more of the following things:
 - (i) order that the person's registration or practising licence (or both) be cancelled;
 - (ii) order that the person's provisional licence be cancelled;
 - (iii) order that the person may not apply to be reregistered or re-licensed before the expiry of a specified period;
 - (b) order that the person's registration or practising licence (or both), or the person's provisional licence, be suspended—
 - (i) for any period that the Board thinks fit; or
 - (ii) until that person does 1 or more of the things specified in subsection (2):
 - (c) order that the person's registration or practising licence (or both), or the person's provisional licence, be restricted for any period that the Board thinks fit, in either or both of the following ways:
 - (i) by limiting the person to the work that the Board may specify;
 - (ii) by limiting the person to doing, or assisting in doing, work in certain circumstances (for example, by limiting the person to work only on approved premises or only in the employ of an approved employer):
 - (d) order that the person be disqualified from doing or assisting in doing prescribed electrical work that the person would otherwise be authorised to do in that person's capacity as a person to whom this Part applies—
 - (i) permanently, or for any period that the Board thinks fit; or
 - (ii) until that person does 1 or more of the things specified in subsection (2):
 - (e) order the person to do 1 or more of the things specified in subsection (2) within the period specified in the order;
 - (f) order the person to pay a fine not exceeding \$10,000;
 - (g) order that the person be censured;
 - (h) make no order under this subsection.
- (2) The things that the person can be required to do for the purposes of subsection (1)(b), (d), and (e) are to—
- (a) pass any specified examination;
 - (b) complete any competence programme or specified period of training;
 - (c) attend any specified course of instruction.
- (3) The Board may take only 1 type of action in subsection (1) in relation to a case, except that it may impose a fine under subsection (1)(f) in addition to taking the action under subsection (1)(b), (c), (e) or (g).
- (4) No fine may be imposed under subsection (1)(f) in relation to an act or omission that constitutes an—
- (a) offence for which the person has been convicted by a court; or
 - (b) infringement offence for which the person has been issued with an infringement notice and has paid an infringement fee.
- (5) The Board must not exercise any authority conferred by this section in respect of any offence committed by any person before the date of that person's registration or, as the case may be, the date on which that person's provisional licence was issued if at that date the Board was aware of that person's conviction for that offence.
- (6) If a person is registered under Part 10 in respect of more than 1 class of registration, the Board may exercise its powers under subsection (1)(a) to (e) in respect of each of those classes or 1 or more of those classes as the Board thinks fit.]

ⁱⁱ Section 147ZA Appeals

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

Section 147ZB Time for lodging appeal

An appeal under section 147ZA must be brought within—

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