

Before the Electrical Workers Registration Board

CE No. 22748

In the matter of:

A disciplinary hearing before the Electrical Workers Registration Board

Between:

The Ministry of Business Innovation and Employment

And

Marcel Hamann a registered and licensed electrical worker (E 10510, EW 062979, Electrician) (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:

Wellington and by audio-visual link

Hearing Type:

In Person

Hearing and Decision Date:

22 August 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 Ellison for the Investigator

Procedure:

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

Board Decision:

The Respondent **has** committed disciplinary offences under sections 143(a)(ii) and 143(f) of the Act.

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Summary of the Board’s Decision

- [1] The Respondent carried out prescribed electrical work in a manner that was contrary to an enactment and provided a false and misleading return. He was fined \$500 and ordered to pay costs of \$250. A record of the disciplinary 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. The notice was later amended. The amended notice alleged:

First Alleged Disciplinary Offence

1. Between 22 May 2019 and 6 June 2019 at [OMITTED] Mr Marcel Hamann 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) Failed to verify the installation had an independent/main earthing system before reconnecting the part installation to a supply; and/or
- b) Altered three roof trusses, impacting the structural integrity of the house in contravention of AS/NZS 3000:2007 Appendix E3.2

In breach of regulations 59, 59(1), and 73A(1)(e)(iv) of the Electricity (Safety) Regulations 2010.

Or in the Alternative

2. Between 22 May 2019 and 6 June 2019 at [OMITTED] Mr Marcel Hamann 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) Failed to verify the installation had an independent/main earthing system before reconnecting the part installation to a supply; and/or
- b) Altered three roof trusses, impacting the structural integrity of the house in contravention of AS/NZS 3000:2007 Appendix E3.2

Second Alleged Disciplinary Offence

3. Between 22 May 2019 and 6 June 2019 at [OMITTED] Mr Marcel Hamann has provided a false or misleading return being an offence under section 143(f) of the Act, IN THAT, he provided a Certificate of Compliance falsely certifying that the Prescribed Electrical Work had been carried out in accordance with the relevant regulations and Standards and contained incorrect information.

- [4] 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

- [5] The common understanding of the purpose of professional discipline is to uphold the integrity of the profession. The focus is not punishment, but the protection of the public, the maintenance of public confidence and the enforcement of high standards of propriety and professional conduct. Those purposes were recently reiterated by the Supreme Court of the United Kingdom in *R v Institute of Chartered Accountants in England and Wales*¹ and in New Zealand in *Dentice v Valuers Registration Board*².

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

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

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

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

Procedure

- [8] The matter proceeded on the basis of an Agreed Statement of Facts.

Evidence

- [9] 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.

- [10] The Board heard from the Respondent prior to making a decision. It also reviewed written submissions made by the Respondent. Those submissions, on the face of them, called into question the findings of a District Court decision that was not before the Board. The Board decided it would not take into account the statements and allegations made in the submissions relating to the District Court proceedings and decision, except to acknowledge that the relationship with the owner of the property where the prescribed electrical work (PEW) was undertaken was difficult.
- [11] The Agreed Statement of Facts set out that the Respondent was engaged, as a subcontractor, to carry out PEW associated with the installation of a ducted air conditioning system. During the installation, three supporting roof trusses were altered to fit the air conditioning unit into the roof space. This impacted the structural integrity of the roof.
- [12] Following the completion of the PEW, the Complainant alleged that the Respondent had carried out the installation of the ducted air conditioning system in a non-compliant manner. The Investigator instructed Mr John McAlpine, an expert, to review the PEW and provide an opinion. Mr McAlpine’s review formed the basis of the alleged disciplinary offences.
- [13] The Respondent provided a response to the allegations in which he maintained that the Complainant authorised the alteration of the roof trusses. In the Agreed

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

Statement of Facts, the Respondent accepted responsibility for the non-compliant PEW and stated that he was remorseful for his actions.

- [14] 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

- [15] The charges put before the Board were laid in the alternatives of negligence or incompetence under section 143(a)(i) of the Act and contrary to an enactment under section 143(a)(ii). The Board's decision was that the Respondent had carried out PEW in a manner that was contrary to an enactment but only in relation to the allegation that the Respondent failed to verify the installation had an independent/main earthing system before reconnecting the part installation to a supply.
- [16] With respect to the allegation that the Respondent altered three roof trusses, impacting the structural integrity of the house in contravention of AS/NZS 3000:2007 Appendix E3.2, the Board found that the alleged conduct did not come within the definition of PEW and that, therefore, all of the elements of the offence had not been satisfied.
- [17] The Board's reasoning for its decisions follows.

Independent Earth

- [18] The Board's finding was that the PEW had been carried out in a manner that was contrary to an enactment. Contrary to an enactment is a form of strict liability offence. All that has to be proven is that a relevant enactment has been breached, in the instance, the Electricity (Safety) Regulations 2010. The Board does not need to find that there was intention, fault or negligence⁵.
- [19] The PEW was carried out on a low-voltage installation. Under regulation 73A(1)(e)(iv) of the Safety Regulations, there was a requirement to verify the earthing system before a connection was made. The regulation stipulates:

73A Before connecting installations to power supply

- (1) *Before connecting to a power supply a low or extra-low voltage installation or part installation on which prescribed electrical work has been done, the person doing the connection must—*
- (e) *in the case of a low voltage installation or part installation, do all of the following:*
- (iv) *if the supply is from a MEN system, verify that there is a main earthing system.*

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

- [20] The evidence before the Board established, and the Respondent accepted, that he had not verified that the installation had an independent/main earthing system before he reconnected the part installation to a supply. On that basis, the work was contrary to section 73A(1)(e)(iv) of the Safety Regulations, and the elements of the offence have been satisfied. The Respondent has carried out PEW in a manner that was contrary to an enactment.
- [21] The charge was laid in the alternative of negligence or incompetence. Negligence is the departure by an electrical worker 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*⁶ test of negligence which has been adopted by the New Zealand Courts⁷. 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*,⁸ it was stated as “*an inability to do the job*”.
- [22] The assessment of negligence and/or incompetence in a disciplinary context is a two-stage test.⁹ The first is for the Board to consider whether the practitioner has departed from the acceptable standard of conduct. The second is to consider whether the departure is serious enough to warrant a disciplinary sanction. With respect to the second stage, in *Collie v Nursing Council of New Zealand*,¹⁰ the High Court stated:
- [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.*
- [23] In *Pillai v Messiter (No 2)*,¹¹ an Australian Court of Appeal decision that has been adopted by the Superior Courts of New Zealand, stated:
- ... the statutory test is not met by mere professional incompetence or by deficiencies in the practice of the profession. Something more is required. It includes a deliberate departure from accepted standards or such serious negligence as, although not deliberate, to portray indifference and an abuse.*
- [24] It was with respect to the second stage that the Board decided that the conduct did not reach the threshold for a finding of negligence or incompetence. Whilst a competent electrical worker would be expected to have verified the earthing system, in the circumstances of the case, which included complications with being able to

⁶ *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582

⁷ *Martin v Director of Proceedings* [2010] NZAR 333 (HC), *F v Medical Practitioners Disciplinary Tribunal* [2005] 3 NZLR 774 (CA)

⁸ *Ali v Kumar and Others* [2017] NZDC 23582 at [30]

⁹ *Martin v Director of Proceedings* [2010] NZAR 333 (HC), *F v Medical Practitioners Disciplinary Tribunal* [2005] 3 NZLR 774 (CA)

¹⁰ [2001] NZAR 74

¹¹ (1989) 16 NSWLR 197 (CA) at 200

ascertain the earthing system, the Board decided that the conduct was not serious enough.

Trusses

- [25] The Board found that the alleged conduct did not relate to PEW and, as such, that all the elements of the offence had not been made out.
- [26] Both sections 143(a)(i) and (ii) of the Act specify that the conduct must relate to PEW. PEW is defined in both the Act and the Safety Regulations. The most comprehensive definition is in Schedule 1 of the Safety Regulations, which contains the following list of electrical work that is PEW:
- (a) *the installation, connection, or maintenance of conductors used in works or installations:*
 - (b) *the installation, connection, or maintenance of fittings where the fittings are connected, or intended to be connected, to conductors used in works or installations:*
 - (c) *the connection or disconnection of fittings to or from a power supply, other than by means of a plug or pin inserted into a socket, or an appliance connector inserted into an appliance inlet:*
 - (d) *the maintenance of appliances:*
 - (e) *the testing of work described in paragraphs (a) to (d) that—*
 - (i) *is not work described in clause (2); and*
 - (ii) *is required by these regulations; and*
 - (iii) *is carried out for the purpose of compliance with these regulations:*
 - (f) *the certification of work described in paragraphs (a) to (d) that is not work described in clause 2:*
 - (g) *the inspection of work described in paragraphs (a) to (d) that—*
 - (i) *is not work described in clause (2); and*
 - (ii) *is required by these regulations; and*
 - (iii) *is carried out for the purpose of compliance with these regulations:*
 - (h) *the supervision of any work described in paragraphs (a) to (d) that is not work described in clause 2.*
- [27] Building work on trusses does not come within any of the above. As such, the Respondent's work cannot be prescribed electrical work. It was, in essence, building work, which is defined in the Building Act and of which more will be said in due course.

[28] The Board also notes that the Investigator's case relied on a breach of regulation 59(1) of the Safety Regulations. Under the regulation, because the PEW was carried out on a low-voltage installation, it had to be carried out in accordance with AS/NZS 3000. The Investigator alleged that clause E3.2 of the Standard had been breached.

[29] In the preface to AS/NZS 3000, it states

(xiviii) Appendix E has been added to provide some information on the electrical requirements contained in ... the New Zealand Building Code.

And

Statements expressed in mandatory terms and notes to tables and figures are deemed to be requirements of this Standard.

The term "informative" has been used in this Standard to define the application of the appendix to which it applies. An "informative" appendix is only for information and guidance.

[30] Appendix E is titled Electrical Installation Requirements in National Building Codes. Clause E1 sets out the scope of the Appendix. It notes that reference to Building Codes is "recommended" for clarification of their application and any exceptions. It goes on to state:

This Appendix outlines the above provisions in order to inform the electrical industry and practitioners who work with AS/NZS 3000 of measures affecting electrical installations implemented under the ... New Zealand Building Code.

[31] On the basis of the above, it is clear that Appendix E is for information purposes only. As such, even if altering trusses was PEW, which it is not, the Investigator's case would have failed as AS/NZS 3000 had not been breached.

Building Work

[32] The Respondent should note that whilst the work on the trusses does not come within the electrical worker disciplinary regime, he may have breached provisions of the Building Act 2004. Under section 40 of the Building Act, all building work must also be carried out in accordance with a building consent, and it is an offence to do otherwise:

40 Buildings not to be constructed, altered, demolished, or removed without consent

(1) *A person must not carry out any building work except in accordance with a building consent.*

(2) *A person commits an offence if the person fails to comply with this section.*

(3) *A person who commits an offence under this section is liable on conviction to a fine not exceeding \$200,000 and, in the case of a*

continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence has continued.

- [33] There are limited exceptions to the requirement for a building consent. They are provided for in section 41 of the Building Act. The main exception is building work described in Schedule 1 of the Act, and this is further provided for in section 42A of the Building Act. The burden is on those who seek to rely on an exception to show that the building work comes with that exception. It is unlikely, given that the building work involved the alteration of trusses, an integral structural element, that an exemption would have applied.
- [34] The Respondent should take care in the future to ensure Building Act compliance is met.

Second Offence

- [35] The charge under section 143(f) of the Act related to the provision of a false or misleading return. Determining whether a return is false or misleading is a question of fact to be decided objectively. The intention of the issuer is irrelevant¹².
- [36] The return referred to is issued under the Regulations. There is a requirement that a Certificate of Compliance is issued for high and general risk PEW. A Certificate of Compliance must state that the PEW has been done lawfully and safely and that the information in the certificate is correct. Because regulation 73A of the Safety Regulations had been breached, it follows that the certification was not accurate and that the offence has been committed.

Board's Decision

- [37] The Board has decided that the Respondent **has**:
- (a) 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 failed to verify the installation had an independent/main earthing system before reconnecting the part installation to a supply; and
 - (b) provided a false or misleading return being an offence under section 143(f) of the Act, in that he provided a Certificate of Compliance falsely certifying that the prescribed electrical work had been carried out in accordance with the relevant regulations and contained incorrect information.

Penalty, Costs and Publication

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

¹² *Taylor Bros Ltd v Taylor Group Ltd* [1988] 2 NZLR 1

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

Penalty

[40] 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.¹³ It is not a formulaic exercise, but there are established underlying principles that the Board should take into consideration. They include:¹⁴

- (a) protection of the public and consideration of the purposes of the Act;¹⁵
- (b) deterring other Electrical Workers from similar offending;¹⁶
- (c) setting and enforcing a high standard of conduct for the industry;¹⁷
- (d) penalising wrongdoing;¹⁸ and
- (e) rehabilitation (where appropriate).¹⁹

[41] 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 cases²⁰ and applying the least restrictive penalty available for the particular offending.²¹ In all, the Board should be looking to impose a fair, reasonable, and proportionate penalty²² that is consistent with other penalties imposed by the Board for comparable offending.²³

[42] In general, when determining the appropriate penalty, the Board adopts a starting point based on the principles outlined above prior to considering any aggravating and/or mitigating factors present.²⁴

[43] The Board adopted a starting point of a fine of \$1,000, an amount that is consistent with fines imposed by the Board for similar disciplinary offences. There are no aggravating factors. The Respondent's cooperation and acceptance that he

¹³ *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]

¹⁴ Cited with approval in *Robinson v Complaints Assessment Committee of Teaching Council of Aotearoa New Zealand* [2022] NZCA 350 at [28] and [29]

¹⁵ Section 3 Building Act

¹⁶ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

¹⁷ *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) at 724

¹⁸ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

¹⁹ *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

²⁰ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

²¹ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818

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

²³ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

²⁴ 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.

committed the disciplinary offences are mitigating factors. Taking those into account, the Board has reduced the fine by 50% to a fine of \$500.

Costs

- [44] 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.
- [45] 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.²⁵
- [46] In *Collie v Nursing Council of New Zealand*,²⁶ 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.*
- [47] In *Kenneth Michael Daniels v Complaints Committee 2 of the Wellington District Law Society*,²⁷ 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 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.*
- [48] 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.
- [49] 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 the amount of

²⁵ *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.

²⁶ [2001] NZAR 74

²⁷ CIV-2011-485-000227 8 August 2011

costs the Board took into account that the Respondent had agreed to the matter proceeding by way of an Agreed Statement of Facts.

Publication

- [50] 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 Act²⁸. 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.
- [51] 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.
- [52] Within New Zealand, there is a principle of open justice and open reporting which is enshrined in the Bill of Rights Act 1990²⁹. The Criminal Procedure Act 2011 sets out grounds for suppression within the criminal jurisdiction³⁰. Within the disciplinary hearing jurisdiction, the courts have stated that the provisions in the Criminal Procedure Act do not apply but can be instructive³¹. 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*³².
- [53] 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 interest³³. 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.
- [54] 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 not be identified in the Electron.
- [55] The Respondent should also note that the Board has not made any form of order under section 153(3) of the Act which allows for prohibition of publication.

²⁸ Refer sections 128 of the Act

²⁹ Section 14 of the Act

³⁰ Refer sections 200 and 202 of the Criminal Procedure Act

³¹ *N v Professional Conduct Committee of Medical Council* [2014] NZAR 350

³² *ibid*

³³ *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055

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 \$500.

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 not be named in the publication.

[57] The Respondent should note that the Board may refuse to relicense 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 16th day of September 2024



R Keys
Presiding Member

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.