

Before the Electrical Workers Registration Board

CE No. 22784

In the matter of:

A disciplinary hearing before the Electrical Workers Registration Board

Between:

The Ministry of Business Innovation and Employment

And

Hugh Swartbooi a registered and licensed electrical worker (E 265688, EW 131625, 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

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: K Sagaga 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)(i) and 143(f) of the Act.

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Summary of the Board’s Decision

- [1] The Respondent negligently carried out prescribed electrical work and provided a false and misleading return. He was fined \$1,000 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. They were:

First Alleged Disciplinary Offence

1. On or around 26 May 2019 at 126 Bruce Road, Levin, Mr Hugh Swartbooi 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 connect the submain to the electricity supply (connected directly to revenue meter as opposed to the main (MEN) switchboard); and/or
- (b) Failed to provide adequate mechanical protection to installed submain cable; and/or
- (c) Failed to provide adequate mechanical protection to installed submain protective earthing cable and connection to earth electrode; and/or
- (d) Failed to use suitable fitting that would prevent corrosion at point where the submain protective earthing cable was connected to earth electrode.

In breach of regulations 59, 20 of the Electricity (Safety) Regulations 2010.

Or in the Alternative

- 2. On or around 26 May 2019 at **[Omitted]**, Mr Hugh Swartbooi 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 connect the submain to the electricity supply (connected directly to revenue meter as opposed to the main (MEN) switchboard); and/or
 - (b) Failed to provide adequate mechanical protection to installed submain cable; and/or
 - (c) Failed to provide adequate mechanical protection to installed submain protective earthing cable and connection to earth electrode; and/or
 - (d) Failed to use suitable fitting that would prevent corrosion at point where the submain protective earthing cable was connected to earth electrode.

Second Alleged Disciplinary Offence

- 3. On or around 26 May 2019 at **[Omitted]**, Mr Hugh Swartbooi has provided a false or misleading return being an offence under section 143(f) of the Act, IN THAT, he falsely declared that prescribed electrical work undertaken was lawful. The Investigator will have sent you all of the materials the Investigator has in his/her power or possession associated with the complaint. This material will also be presented to the Board at the Hearing.

[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:
- “... 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 it making a decision.
- [11] The Agreed Statement of Facts set out that the Respondent was engaged to carry out prescribed electrical work (PEW) associated with supplying a workshop with electricity. Some years after the PEW was completed and certified, another electrical worker noted non-compliant work and filed a complaint.
- [12] The Investigator instructed Mr Mark Carter, an expert, to review the complaint and PEW. Mr Carter’s findings formed the basis of the disciplinary offences as set out in

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

the Notice of Proceeding. The Respondent accepted that he had carried out PEW in a negligent manner and that he had provided a false or misleading return.

- [13] 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 for any further evidence or to test the evidence as outlined in the Statement.

First Offence

- [14] The charge was 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).
- [15] 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.
- [16] Contrary to an enactment is a strict liability offence. 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.
- [17] Negligence is 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*⁶ test of negligence which has been adopted by the New Zealand Courts⁷.
- [18] 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”.
- [19] The New Zealand Courts have stated that an assessment of negligence and/or incompetence in a disciplinary context is a two-stage test⁹. 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 serious enough to warrant a disciplinary sanction.
- [20] 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

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

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)

assessment of what is appropriate conduct, bearing in mind the purpose of the Act,¹⁰ 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 practitioner¹¹.

- [21] Turning to seriousness in *Collie v Nursing Council of New Zealand*,¹² the Court's 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.

Contrary to an Enactment

- [22] The prescribed electrical work was carried out on a low-voltage installation. Under the Safety Regulations, the work had to be carried out in accordance with AS/NZS 3000 because regulation 59 stipulates:

59 Low and extra-low voltage installations to comply with AS/NZS 3000

(1) *Every low or extra-low voltage domestic installation, or part of a domestic installation, must be installed, tested, inspected, and connected so as to comply with Part 2 of AS/NZS 3000 if it has a maximum demand at or below—*

(a) *80 amperes per phase if single-phase; or*

(b) *50 amperes per phase if multi-phase.*

- [23] The Board received evidence that the prescribed electrical work had not been completed in accordance with AS/NZS 3000, specifically clauses:
- (a) 5.5.3.1 in respect of a failure to connect the submain to the electricity supply (connected directly to revenue meter as opposed to the main (MEN) switchboard);
 - (b) 3.1.2 and 3.3.2.6 in respect of a failure to provide adequate mechanical protection to installed submain cable;
 - (c) 5.5.5.1, 5.5.1.2 and 5.5.5.2 in respect of a failure to provide adequate mechanical protection to installed submain protective earthing cable and connection to earth electrode; and

¹⁰ *Martin v Director of Proceedings* [2010] NZAR 333 at p.33

¹¹ *McKenzie v Medical Practitioners Disciplinary Tribunal* [2004] NZAR 47 at p.71

¹² [2001] NZAR 74

- (d) 5.5.3.1, 5.5.1.2 and 5.5.5.3 in respect of a failure to use suitable fitting that would prevent corrosion at point where the submain protective earthing cable was connected to earth electrode.

[24] The Respondent accepted the above and agreed that his PEW had not been completed in accordance with AS/NZS 3000. As such, the prescribed electrical work set out in the First Offence was carried out in a manner that was contrary to an enactment.

Negligence

[25] Aspects of the non-compliant prescribed electrical work were, however, more serious. With respect to those aspects, the Board found that the Respondent had been negligent.

[26] The Board made its findings of negligence on the basis that the Respondent's PEW had not been completed to an acceptable standard and the conduct was serious. IN coming to that decision, the Board noted that the provisions of regulations 13 and 20 of the Safety Regulations had been breached.

[27] Section 13 states:

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

(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.*

[28] Noting that the PEW must be "electrically safe", regulation 20 deems certain installations to be unsafe. Included is the manner in which underground cables are installed and protected:

20 Electrically unsafe works and installations

(2) *Works and installations are also deemed to be electrically unsafe if—*

(g) *cables (including underground cables) are inadequately protected against the risk of damage by the nature of their covering or their method of installation;*

[29] The term electrically unsafe is 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 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.

- [30] The Board would have expected the Respondent to have carried out the PEW in a manner that complied with the Safety Regulations and which resulted in an electrically safe installation. He did not, and the Board finds that his conduct has fallen below an acceptable standard and that the departure was serious. It is appropriate that the Respondent be disciplined.

Second Offence

- [31] The charge under section 143(f) of the Act related to the provision of a false or misleading return. In determining whether a return is false or misleading is a question of fact to be decided objectively and the intention of the issuer is irrelevant.¹³
- [32] The returns referred to are issued under the Regulations. There is a requirement that an Electrical Safety Certificate be issued for all prescribed electrical work. It must contain a statement to the effect that the installation or part installation is connected to a power supply and is safe to use. There is also a requirement that a Certificate of Compliance is issued for high and general risk prescribed electrical work. A Certificate of Compliance must state that the prescribed electrical work has been done lawfully and safely and that the information in the certificate is correct.
- [33] The specific allegations were that the Respondent falsely declared that the PEW was lawful. As there had been departures from AS/NZS 3000, it was not. The Respondent accepted the allegation, and the offence has been committed.

Board's Decision

- [34] The Board has decided that the Respondent **has**:
- (a) carried out prescribed electrical work in a negligent manner being an offence under section 143(a)(i) of the Act; and
 - (b) provided a false or misleading return being an offence under section 143(f) of the Act.

Penalty, Costs and Publication

- [35] 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.
- [36] The Respondent made submissions at the hearing regarding penalty, costs, and publication.

¹³ *Taylor Bros Ltd v Taylor Group Ltd* [1988] 2 NZLR 1

Penalty

- [37] 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.¹⁴ It is not a formulaic exercise, but there are established underlying principles that the Board should take into consideration. They include:¹⁵
- (a) protection of the public and consideration of the purposes of the Act;¹⁶
 - (b) deterring other Electrical Workers from similar offending;¹⁷
 - (c) setting and enforcing a high standard of conduct for the industry;¹⁸
 - (d) penalising wrongdoing;¹⁹ and
 - (e) rehabilitation (where appropriate).²⁰
- [38] 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 cases²¹ and applying the least restrictive penalty available for the particular offending.²² In all, the Board should be looking to impose a fair, reasonable, and proportionate penalty²³ that is consistent with other penalties imposed by the Board for comparable offending.²⁴
- [39] 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.²⁵
- [40] The Respondent stated it was one of the first jobs he had completed as an independent contractor. He submitted the work was not reflective of how he currently carries out his PEW. Given the lapse of time and the submission made, notwithstanding the fundamental nature of the departures from AS/NZS 3000, the Board did not consider that a training order was appropriate. As such, it adopted a starting point of a fine, which it set at \$2,000, an amount that is consistent with other fines imposed for similar offences by the Board.

¹⁴ *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]

¹⁵ Cited with approval in *Robinson v Complaints Assessment Committee of Teaching Council of Aotearoa New Zealand* [2022] NZCA 350 at [28] and [29]

¹⁶ Section 3 Building Act

¹⁷ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

¹⁸ *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) at 724

¹⁹ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

²⁰ *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

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

²² *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818

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

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

²⁵ 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.

- [41] There are no aggravating factors. The Respondent's cooperation and acceptance that he committed the disciplinary offences are mitigating factors. Taking those into account, the Board has reduced the fine by 50% to a fine of \$1,000.

Costs

- [42] 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.
- [43] 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.²⁶
- [44] In *Collie v Nursing Council of New Zealand*,²⁷ 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.*
- [45] In *Kenneth Michael Daniels v Complaints Committee 2 of the Wellington District Law Society*,²⁸ 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.*
- [46] 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.
- [47] 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

²⁶ *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.

²⁷ [2001] NZAR 74

²⁸ 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

- [48] 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 Act²⁹. 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.
- [49] 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.
- [50] Within New Zealand, there is a principle of open justice and open reporting which is enshrined in the Bill of Rights Act 1990³⁰. The Criminal Procedure Act 2011 sets out grounds for suppression within the criminal jurisdiction³¹. Within the disciplinary hearing jurisdiction, the courts have stated that the provisions in the Criminal Procedure Act do not apply but can be instructive³². 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*³³.
- [51] 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 interest³⁴. 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.
- [52] 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.
- [53] 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.

²⁹ Refer sections 128 of the Act

³⁰ Section 14 of the Act

³¹ Refer sections 200 and 202 of the Criminal Procedure Act

³² *N v Professional Conduct Committee of Medical Council* [2014] NZAR 350

³³ *ibid*

³⁴ *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055

Penalty, Costs and Publication Orders

[54] 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 \$1,000.

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 not be named in the publication.

[55] 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

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

Signed and dated this 17th 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:

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- (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.*