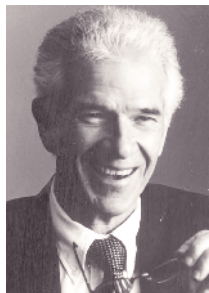


President's Message



It's about professionalism

I was part of a panel at the recent ACENZ Conference in Wellington which addressed the question, "Consulting Engineering, Business or Profession?" It was suggested to the panelists that in preparation for the discussion, they might consider questions such as the importance of ethics in business today, and whether operating a business might compromise professionalism. These are very valid

concerns. It occurs to me as I travel around the country talking to IPENZ Members, that to achieve awareness of the role of the Institution, there needs to be ongoing discussion on the key issues of:

- what it means to be an engineering professional
- the role of IPENZ as the learned society
- the professional and competence brands that IPENZ maintains

Firstly, engineering professionals work at the forefront of knowledge. They break new ground in the design of structures, use of materials and application of analysis techniques. What is right and what is wrong is not black or white – it is a matter of judgment. The two key elements that are often misunderstood are:

- the profession rather than the employer decides acceptable standards from both ethical and competence perspectives;
- the professional has responsibilities to society at large that may transcend those of the employer.

These special collegial responsibilities are best exercised through a collegially governed professional body – in our case IPENZ. An engineer's acceptance into the professional body, their acceptance of its role as the standard-setter and gatekeeper, and their personal contribution to the collegial activities through interaction with colleagues are the true signs of a professional engineer.

The post-nominals MIPENZ, FIPENZ etc. are therefore promoted by IPENZ as the mark of professionalism – important to employers and clients, and just as important to engineers. They represent recognition by peers that the holder of these marks engages with colleagues both for the advancement of the profession and for personal growth and development. On the other hand, what we used to call "Registration" serves a different purpose today. Registration as CPEng, or on the international register as IntPE, is a mark of current competence as a practitioner, administered by IPENZ.

The point I wish to stress is that the role of the Institution has changed from not only upholding ethics and competence issues, but to also becoming the regulator of the profession under the CPEng Act. These functions are managed through the complaints process, where complaints are made either by peers or others outside the profession, normally our clients.

This last month has seen some significant events in relation to IPENZ and public confidence in engineers. Media attention late in August focussed for a day or so on whether structural engineers were doing work of adequate quality. This followed the placement of newspaper advertisements in July by a Bay of Plenty company, to publicise what they considered poor ethical practice by an engineering consultancy.

On 24 August the Board received report of a disciplinary action taken against a Member by the Institution, through application of its Regulations for Hearing and Determination of Complaints. This matter is described in a separate article in this issue. This is the first disciplinary action for several years. In addition we have several matters before Investigating Committees (the process stage before a Disciplinary Committee is formed, but after initial screening of complaints by a Complaint Research Officer). These are all matters in the context of IPENZ, i.e. the engineer concerned is an IPENZ Member and was not a CPEng at the time of the matter to which the complaint refers. The first complaint against a Chartered Professional Engineer has also been received, and a decision made on the matter.

[continued overleaf>>](#)

Responding better to complaints IPENZ Rules, Code of Ethics, and Disciplinary Regulations

Staff are in the last stages of revision to three key underpinning documents of the Institution, following considerable effort by a working party of Members. It is intended that these revisions be approved on 30 November 2004. This article sets out the proposed changes and invites comments from Members, this being the final stage of consultation on these matters.

IPENZ Rules

Changes are proposed to Rules 4 and 11. The former will set out the obligations on Members and the latter is an enabling Rule under which the Disciplinary Regulations are prepared.

Rule 4 will set out the four obligations on Members as follows:

- Membership obligation (the agreement by Members to obey the Rules and Regulations of the Institution)
- Ethical obligation (the obligation to obey the Code of Ethics)
- Competence obligation (the obligation of Graduate, Associate, Technical and Professional Members, and on Fellows and Distinguished Fellows to perform engineering activities competently and carefully in a manner commensurate with their Membership class)
- Good character obligation (the requirement to be a fit and proper person to be a Member)

Rule 11 empowers the establishment of the various processes for hearing and determining complaints. The proposed changes to this Rule include the fast tracking of complaints against Members who have already been disciplined as CPEng, and extending the range of penalties to include requirements to undertake professional development.

IPENZ Code of Ethics

The present Code of Ethics has five principles or values statements, and a set of guidelines. When a complaint is heard, the "test" is against one or more of the principles, and is informed by the guidelines. The proposal is that the Code will change to have three Parts:

- Part I – the five principles with some rewording to create greater clarity
- Part II – guidelines to assist Members, also reworded to improve clarity
- Part III – a set of statements stating the minimum standard of acceptable ethical behaviour that will be used as the basis of the "test" in hearing complaints.

[continued overleaf>>](#)

continued from page 1>>

The complaints procedure is a key process for building and maintaining public confidence and maintaining standards. We must be seen to deal effectively but fairly with Chartered Professional Engineers who perform poorly, and make the results of our disciplinary orders public. We must also ensure that complaints are made when justified. We are encouraging regulators who see a succession of poor quality work from a particular engineer to make complaints, and all engineers must take on the responsibility for raising matters of poor performance (whether ethical or competence-related) with National Office. We must also receive frank and honest referee statements about candidates for CPEng registration. Regrettably, there are still too frequent rumours of poor performers whom no-one is prepared to complain about in writing.

Improvements to the process, which are underway, involve clarifying the IPENZ Rules, Code of Ethics, and Regulations for Hearing and Determination of Complaints against Members (to be renamed the Disciplinary Regulations). Additionally we are commencing consultation on small changes to the CPEng process for hearing complaints. These changes are described in detail in another article in this issue. The goal is to make the obligations on Members for both competence and ethical behaviour very clear, and to have effective and efficient processes for handling complaints. These processes must be unambiguous so that our various Investigating and Disciplinary Committees do not inadvertently infringe the Regulations, laying their decisions and actions open to appeal. We also need to have suitable means to deal with complaints laid simultaneously against an engineer in the CPEng and IPENZ regimes.

The Board intends that there will be a Special General Meeting on 30 November 2004 to approve some changes to the IPENZ Rules to apply from 1 January 2005. Additionally, the Board expects to approve changes to the IPENZ Code of Ethics, the Disciplinary Regulations and the CPEng Rules, on the same day. This will update the underpinning systems and processes. The confidence of the public will then depend on our fair application of the tools available to each and every Member.

Ian Parton
President

continued from page 1>>

Part III was developed by translating the CPEng code of ethical conduct into the IPENZ context. This means that the ethical test on Members who are also CPEng is exactly the same in the two contexts.

The change is to move away from decisions based on compliance to the aspirational values statements of Part I, to tests against 11 specific statements expressed as "must" or "must not" statements in Part III. It is expected that decisions will then become more clearcut.

Members should aspire to the behaviours described in the five principles of Part I and in this be guided by Part II, but are expected to adhere to the minimum requirements of Part III.

IPENZ Disciplinary Regulations

There are two sets of changes proposed in addition to changes that arise consequentially from the IPENZ Rule changes. The first are changes to maintain as much process commonality as possible with the CPEng procedures (see page 4). The second set of changes are intended to improve the appeals stage. There is no appeals stage in the CPEng Rules (as appeals pass outside our jurisdiction to the CPEng Council), so the appeals stage is only in the IPENZ context. The proposals include clarifying the grounds on which appeals can be made, and introducing a preliminary hearing for appeals to decide whether there are sufficient grounds for an appeal to be heard.

Your chance for final submissions

As the proposals become available they will be posted in the Member-only area of the website, and notification of such postings will be made in *engineering direct*. The first postings (the proposed IPENZ Rule Changes and the proposed revisions to the IPENZ Code of Ethics) are likely to be posted in early September, and the Disciplinary Regulations by the end of September.

If Members wish to comment on the proposed IPENZ Rule changes they should make their comment to the Chief Executive (acleland@ipenz.org.nz) by 17 September. Comments on the Code of Ethics or the Disciplinary Regulations should be made by 18 October 2004. ☺



Hume Fellowship

Applications are now open for the Hume Fellowship, which funds overseas study by graduates in civil engineering and related disciplines. Here we profile a former Fellow, **Robert Swears MIPENZ**, in the first of a series of articles.

Robert was awarded the Hume Fellowship in 1999, and used it to study at the University of New South Wales, a goal that he says "simply would not have been possible" without it.

Robert answered IPENZ's advertisement for the Hume Fellowship with a proposal to study for a Master of Engineering Science (Transportation). He was the first recipient of the Fellowship who was married with children at the time of commencing study, and the move to Sydney for a year of full-time study turned the family's lives upside down. He credits much of his success to their support.

Robert chose an "all coursework" option, thinking that he would benefit more from greater variety, rather than the narrow focus of a single research project. He completed courses in pavement, traffic engineering and road safety engineering, transport systems, and project management.

He found the workload "enormous", but the research component of the assignments proved challenging and extremely satisfying. Stretching his academic capabilities was also rewarding – exceeding the standards he had previously set for himself.

Robert has applied what he learnt at UNSW to his work as a transportation engineer in a variety of ways. They have included promoting ideas for travel

demand management on a section of a congested network; critical analysis of pavement design parameters; and being readily able to create a transportation simulation model for a resource consent hearing. He is convinced that the benefits of post-graduate education extend far beyond specific applications. "It has given me a wider range of technical solutions to apply, and an appreciation of different approaches to transportation engineering."

He stresses that the benefits are not just professional and academic – "I learnt as much from the experience of being a full-time student in a foreign country as I did from the study itself." Although Sydney is hardly "foreign", to Robert's surprise most of his fellow students were not from Australia, but from countries such as Indonesia, Bangladesh, Taiwan, Sri Lanka and Hong Kong. Friendships made among them have sharpened his awareness of world events, and his appreciation of New Zealand.

"While it is difficult for me to quantify the impact on my engineering career of being awarded the Hume Fellowship, I consider that it has been of enormous benefit for me, both personally and professionally. I was challenged intellectually, emotionally and socially, and have had the opportunity, since returning to New Zealand, to use many of the skills and much of the knowledge I gained during my year of postgraduate coursework study".

He urges anyone interested in postgraduate study overseas to apply for the Hume Fellowship and chase this "life-changing" opportunity.

Further details can be obtained at www.ipenz.org.nz/hume. Applications close on Wednesday 1 December. ☺

DISCIPLINARY ORDER

made against a Member

A complaint was made against a Member (X) on 1 April 2003 by a complainant (Y) in respect of the behaviour of that engineer. The matter was investigated by an Investigating Committee which reported in December 2003 that the matter should be referred to a Disciplinary Committee in respect of an alleged breach of the IPENZ Code of Ethics. A further complaint was lodged by Y in November 2003 alleging that X had failed to perform his engineering activities in a careful and competent manner as required by Rule 4.3 of the Institution. A second Investigating Committee was formed, reporting in February 2004, and recommending that the matter of competence be referred to a Disciplinary Committee. A Disciplinary Committee heard both matters at a hearing on 15 March 2004, and reported its determination on 8 April 2004. That determination was appealed by X on 5 May 2004 and an Appeals Committee heard the matter on 12 July 2004. The Appeals Committee decision is binding and final according to Regulation 25 of the IPENZ Regulations for Hearing and Determination of Complaints Against Members.

The decision of the Appeals Committee was reported to the Board on 24 August 2004, and acting according to Regulation 26, the Board resolved to implement the order of the Appeals Committee which stated that “the details of the case should be published, for the benefit of other practitioners, but that the names of the individuals involved should not be released”.

The finding

X was fined \$400.00 for a breach of Principles 2 and 3 of the IPENZ Code of Ethics. X was admonished and advised to seek assistance from appropriate colleagues on improving risk management procedures for dealing with client relationships within his practice. There was no finding that X was technically incompetent. X was required to pay \$1000.00 towards the costs of the Disciplinary Committee hearing, and a further \$1000.00 towards the Appeals Committee hearing.

The matters concerned

The complainant (Y) is a homeowner living in a rural area in which treatment of domestic sewage must be on-site. Y had been advised by the responsible Territorial Authority (Z) that the site was suitable for a particular type of treatment, and purchased and installed equipment accordingly. The plant subsequently did not work, and the authority undertook to provide assistance to remedy matters. Z engaged X (through a verbal contract) to visit the site, make an assessment and make recommendations. In May 2002, X visited the site and made recommendations which were presented to both his client Z, and to Y. Over the subsequent few weeks, changes were made to the plant but X did not revisit the site. In March 2003, Y contacted X and told X that the plant was still not working. Y asked that X prepare a report stating the changes required to remedy the plant. Y claims that it was made clear that X's report was to form part of a case being prepared by Y against Z for the costs required to achieve a workable on-site treatment system. X prepared a report and submitted it to both Y and Z, and sent Y an invoice for the costs involved.

The first finding against X is that he was in breach of the Code of Ethics in that he allowed himself to be conflicted, and then broke confidentiality in respect of Y who thought X was acting for him. X claimed that Z continued to be his primary client throughout the matter. In fulfilling his duties to Z he was asked to correspond with Y in respect of sharing his technical advice, but his primary responsibility was to Z. In taking instruction from Y and then writing his report of 18 March 2003 and invoicing Y for the costs he had allowed a conflict of interest

to arise. Because X believed that Z was his client he had a duty to inform Y that this was the case. Instead, he allowed a situation to develop in which Y believed that the client relationship had shifted, that Y was now the client, and that X owed a duty of confidentiality to Y.


The second finding was to the effect that X had not taken sufficient care. At the time of his visit in May 2002 he had focussed his attention on the primary and secondary elements of the system, and not systematically evaluated the tertiary element. He had not visited the site for nine months when he wrote the report of 18 March 2003. A number of changes had been made either under his instruction since the time of the last visit, or by others, and presumably X relied on any description given by Y of the changes and their effect. X's report prepared on 18 March 2003 suggested that the primary and tertiary elements would provide adequate treatment. However, in May 2003 at an on-site meeting he agreed with other engineers to a different recommendation, and only at the time of that visit did he examine the tertiary elements in detail. In the words of the Appeals Committee in summing up this aspect “this does not represent a lack of technical competence, but rather a failure by a very senior engineer to recognise all the dimensions of a complex situation and undertake investigations in sufficient detail to ensure the advice he provided was soundly based”.

Some lessons for other Members

X was advised by the Appeals Committee to seek assistance from appropriate colleagues on improving risk management procedures for dealing with client relationships in his practice. In the case concerned, the reliance on inadequately clarified verbal contracts between X and Z and then between X and Y was a major difficulty. For many years IPENZ, with ACENZ, has made available the so-called short form contract as a simple way of forming contracts for small matters. Such contractual forms, and the discipline which comes from using them regularly, may have assisted X to avoid the situation that developed. In any case, professional engineers should exhibit the competence to deal with the complex commercial and legal realities that often accompany disputes on technical matters. This should be seen in the context of the CPEng competence element relating to managing complex engineering activities.

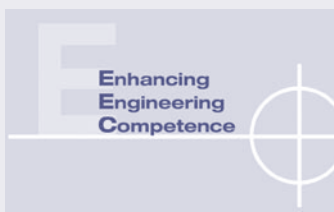
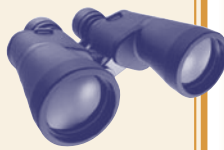
A second lesson is the need to investigate and evaluate all relevant matters and to make no assumptions in conducting investigative work. Many engineers can recount circumstances when they were asked to investigate, and some time after their visit wished they had either paid more attention to what at the time seemed peripheral areas, or had checked that what seemed to be obvious detailing, had in fact been installed correctly.

The costs

Although it is not part of the finding by the Appeals Committee, the Board has resolved that the costs to the profession of this matter be publicised. The two Investigating Committees involved six Fellows of the Institution for several hours each, the Disciplinary Committee involved five people, three of who are Members, and two of whom were lay people. Each of these contributed more than a day, and the Chair much more. The Appeals Committee comprised two past-Presidents and a Barrister – each of these spent more than two days. Three senior staff each spent several days on the matter, and advice had to be sought from the Institution's lawyers. There were also travel and accommodation costs. The direct costs to be borne out of Membership subscriptions are likely to be more than \$20,000, and the cost of Member time, if compensated, would have been of similar magnitude. 

Wellington Watch

- Policy staff made a written submission on the government's Draft Digital Strategy.
- Senior IPENZ staff made a written submission on the 'Distinctive Contributions of Tertiary Education Organisations: a TEC Consultation Paper'.
- Policy staff represented IPENZ at the Ministry for the Environment Consultation Forum on the Draft New Zealand Urban Design protocol.
- IPENZ staff met with affiliated organisations to discuss the implications of the proposed licensing of building practitioners regime.
- Senior staff involved with senior officials on development of flood mitigation protocols.
- Staff met with affiliated organisations to discuss on-going responses to infrastructure audit and "buildability" audit.




Ethics for Professional Engineers

IPENZ has recently run the first of a series of short courses in ethics. Ethics has become increasingly important for business, industry and the profession. In particular it concerns IPENZ Members, since adherence to the IPENZ Code of Ethics is a fundamental requirement of Membership. CPEng registration also requires a commitment to abide by ethical principles; and a reputation for ethical integrity underpins the value of both these brands.

This two-day course, entitled Ethics for Professional Engineers, provides an overview of professional ethical values and obligations, and detailed consideration of the IPENZ Code of Ethics, relevant CPEng Rules, IPENZ disciplinary regulations and complaints procedures. It also covers avoiding ethical failure and legal liability, and helps participants develop ethical reasoning and judgment, and strengthen their dedication to excellence. For CPD purposes the components of the course are linked to Competence and other Standards. The course concentrates on the principles underlying ethical conduct, and will retain its relevance when the changes to the IPENZ Rules, Code of Ethics and Disciplinary Regulations contemplated for 2005 are implemented (i.e. changes will affect the detail of the relevant procedures, but not their underlying principles).

Feedback from participants was enthusiastic, emphasising its practical value – "relevance to day-to-day operation of engineering consultancy", "real situational tools", and "links to the relevant codes". They also liked its structure, presentation and value for money, and one summed it up as "very enjoyable and thought-provoking – surprisingly useful".

The introductory course is to be repeated in several centres – keep an eye on the IPENZ calendar. 

PROPOSAL

The Chartered Pro

Notice is hereby given of the intention to make changes to the CPEng Rules in respect of the procedures for assessing candidates for registration or continued registration, and in respect of the procedures for hearing and determination of complaints. This article describes the rationale for the proposed changes; the actual changes are detailed in the accompanying article page 6. The numerical codes below match those in the accompanying article. There is no explanation for Rules 1 and 2 which allow for title and commencement date.

Submissions on the proposed changes are invited and must be made by 18 October 2004. Submissions must be in writing and should be sent to:

CPEng Rules Consultation
IPENZ Engineers New Zealand
PO Box 12 241
Wellington

or emailed to cpeng@ipenz.org.nz

A. Rationale for changes in relation to assessment

3. Rule 9 – the present Rule allows that the supply of a 'competence self review' is optional, whereas assessment panels have found this extremely useful. The change is to make the supply of this self review compulsory.
4. Rule 9A – applications with incomplete information have no time limitation on the applicant to provide information. Being able to 'lapse' an application if the applicant fails to supply the required information within six months of the request will not only provide an incentive to the applicant but will also reduce the administrative overheads involved in handling these applications. If the applicant has not made a response after six months, all documentation will be returned and part of the fee may be refunded if the work performed is sufficiently small. Thus, if the portfolio of evidence has not been forwarded to the assessment panel, a refund equal to 50% of the application fee will be made.
5. Rule 11 – two changes are proposed here. The first is to add the word "independent" before referee to ensure that the referee's statements are as reliable as possible. The second is a technical change to move the making of recommendations outside the subclause dealing with assessment actions. The new wording requires the recommendations to only be made at the end of assessment.
6. Rule 13 – this is amended to be more practical; the candidate needs to be given the relevant information, being the reasons and the documents supporting those reasons. The candidate does not need to be sent all the information on which the proposed decision is based, which would include the application itself supplied by the candidate.
7. Rule 23 – the change here is identical in intent to that in 3., but applies for the case of assessments for continued registration.
8. Rule 25 – the change here is identical in intent to that in 5., but applies for the case of assessments for continued registration.
9. Rule 35 – the change here is identical in intent to that in 6., but applies for the case of assessments for continued registration.
10. Rule 42 – there is no provision for the retention of any of the applicant's

To make changes to Professional Engineers of New Zealand Rules (No 2) 2002

information beyond the appeal period or the completion of any appeal. This means that relevant information is not available, for reasonable purposes at a later time, and especially at the time of next assessment when it needs to be judged if the practice area of the person has changed. The proposal will allow the retention of the person's documents in a confidential manner.

20. Schedule 1 – changes are proposed in three places. The first is in paragraph (e) where it is proposed to ask candidates to supply both a description of their specialised practice area, and information on the fields of engineering it lies within. This change and extra information will assist in selecting suitable assessors. Changes to paragraph (f) are for the same reasons as outlined in 5. above. Changes to the wording of paragraph (g) are proposed to exactly reflect the way convictions are described in the CPEng Act (as per section 21 rather than 'criminal convictions'). This removes an anomaly.
21. Schedule 2 – changes to the fees schedule are proposed so that rebates for recently achieving 'CPEng equivalence' only apply if that assessment was made by the Registration Authority (IPENZ). The purpose of fee rebates is to give applicants whose applications are easier to assess the benefit. The easier assessment is only possible if the Registration Authority did the assessment and thus already holds the records.

B. Rationale for changes to CPEng disciplinary procedure

Although to date only one complaint has been determined under the CPEng Rules, IPENZ has continued to build experience in handling complaints against IPENZ Members. Those experiences suggest that some changes to the CPEng Rules to improve their effectiveness are justified as follows.

11. Rule 55 – the present Rule allows that when the Registration Authority wishes to inquire into a matter of its own volition, it must immediately commence the matter by forming an Investigating Committee. For other complaints, the first stage is to have the matter investigated by a Complaints Research

Officer, who prepares a report to the Chair of Investigating Committees who then decides whether to dismiss the complaint or refer it to an Investigating Committee. It is considered inappropriate to have to initiate matters straight to an Investigating Committee rather than follow the Complaints Research Officer stage first. The present Rule can be seen to escalate the matter prematurely; makes the decision to go to an Investigating Committee a matter for the Institution rather than the Chair of Investigating Committees; and does not allow the engineer complained about, the chance to give their side of the story before the decision to form an Investigating Committee is made. The change proposed would bring inquiries and complaints to a common process.


12. Rule 57 – there is potential for complaints in which there may be a breach, but that breach is very small, and the result of an error rather than a deliberate action. For example, there may be an inadvertent disclosure of a small piece of confidential information, but the engineer realises very quickly afterwards that he or she made a mistake, apologises and makes every effort to put the situation right. In such cases, the full cost of an Investigating Committee is not justified. Hence an extra ground for dismissing a complaint is proposed. If the complainant is not satisfied, the matter can still be appealed to the CPEng Council, so there is still protection for the complainant.
13. Rule 60(b) – the grounds on which an Investigating Committee can dismiss a complaint are not explicit. The same grounds as apply at the earlier stage when the Chair of the Investigating Committee makes a decision based on the report of the Complaints Research Officer are proposed. The matter will have been more closely scrutinised by the group of three who form the Investigating Committee, and they may decide to dismiss a matter that a Complaint Research Officer and Chair of the Investigating Committee thought should be referred on, at least for the avoidance of doubt. Hence the same grounds as at the early stage are still appropriate.
14. Rule 63 – the amendment here is consistent with the argument in 6. above. The total volume of information could be very large and

much of it will be supporting material. What is desirable is that the person is given the reasons for the intended decision.

15. (and also 17, 18) Rule 71, 83, 84 – the possibility of more than one alternate Chair for each of the Investigating Committee(s) and Disciplinary Committee(s) is desirable; the people doing these roles are volunteers and there are concerns both with workload, and to ensure that there is a pool of sufficiently skilled people for continuity when one retires.
16. Rule 74(2)(c) – the change proposed augments the present clauses on conflict of interest. At present, the Registration Authority must seek to avoid appointing persons who have a conflict, and the Chair of Committees must stand aside if they consider themselves conflicted, but there is no power to force a person to stand aside once appointed. The extra clause would give this power.
19. Rule 85 – this would allow for the Registration Authority to vary the size of the Disciplinary Committee. The Disciplinary Committee is very expensive. For very simple matters e.g. dealing with a registrant who has admitted falsifying documents, the cost of five members as required at present may not be justified. It is suggested that the number be variable (either 3 or 5), and that lay members always comprise at least one-third of the committee (1 of 3, 2 of 5). The Registration Authority would have the discretion to set the number of members according to the needs of particular cases.

C. Transitional matters

The proposed Rule 22 sets out transition arrangements proposed. Any application for registration lodged after the commencement date will be processed by the amended Rules. Applications lodged earlier, but for which an information request is made after the commencement date, will convert to the amended Rules thereafter.

It is proposed that complaints which were made after the commencement date are processed according to the amended Rules, and complaints made prior to the commencement date processed according to the unamended Rules, irrespective of the time of the matter to which the complaint refers. 

Chartered Professional Engineers of New Zealand

Pursuant to section 40(2) and (3) of the Chartered Professional Engineers of New Zealand Act 2002, the Institution of Professional Engineers New Zealand Incorporated, after complying with rule 86 of the Chartered Professional Engineers of New Zealand Rules (No 2) 2002, proposes to make the following rules.

Contents

Rules

1 Title

- (1) These rules are the Chartered Professional Engineers of New Zealand Amendment Rules 2004.
- (2) In these rules, the Chartered Professional Engineers of New Zealand Rules (No 2) 2002 are called "the principal rules".

2 Commencement

These rules come into force on 1 January 2005.

3 Information that must be provided to support application

- (1) Rule 9 of the principal rules is amended by inserting, after paragraph (b), the following paragraph:
"(ba) a statement of self-review reflecting on the applicant's competence and development as a professional engineer; and".
- (2) Rule 9(c) of the principal rules is amended by omitting the words "a statement of self-review reflecting on development as a professional engineer and".

4 New rule 9A inserted

The principal rules are amended by inserting, after rule 9, the following rule:

- "9A Information missing from application
- "(1) The Registration Authority must request an applicant to provide additional information if the application received by the Registration Authority does not contain all of the obligatory information set out in rules 8 and 9.
 - "(2) An application lapses if additional information is requested under subclause (1) or rule 11(1) and that information is not received by, as appropriate, the Registration Authority or the assessment panel before the expiry of 6 months after the date of the request.
 - "(3) If an application lapses, the Registration Authority must –
"(a) return the application and all of the supporting information that accompanied it to the applicant; and
"(b) refund half of the registration application charge that accompanied the application, unless the application has been given to an assessment panel for evaluation in which case no refund may be made."

5 Way in which assessment panel must evaluate application

- (1) Rule 11(1)(c)(ii) of the principal rules is amended by inserting, after the word "further", the word "independent".
- (2) Rule 11(1) of the principal rules is amended by revoking paragraph (f).
- (3) Rule 11 of the principal rules is amended by adding the following subclause:
"(3) After completing the actions required in subclause (1), the assessment panel must make a recommendation to the Competency Assessment Board on the application."

6 Competency Assessment Board must give applicant opportunity to respond

Rule 13(a) of the principal rules is amended by omitting the words "information on which the proposed decision is based", and substituting the words "reasons for the proposed decision".

7 Information that must be provided to demonstrate current competence

- (1) Rule 23(2) of the principal rules is amended by inserting, after paragraph (b), the following paragraph:
"(ba) a statement of self-review reflecting on the candidate's competence and development as a professional engineer; and".
- (2) Rule 23(2)(c) of the principal rules is amended by omitting the words "a statement of self-review reflecting on development as a professional engineer and".

8 Way in which assessment panel must evaluate continued registration

- (1) Rule 25(1)(c)(ii) of the principal rules is amended by inserting, after the word "further", the word "independent".
- (2) Rule 25(1) of the principal rules is amended by revoking paragraph (f).
- (3) Rule 25 of the principal rules is amended by adding the following subclause:
"(3) After completing the actions required in subclause (1), the assessment panel must make a recommendation to the Competency Assessment Board on the candidate's continued registration."

9 Registration Authority must give person opportunity to respond

Rule 35(a) of the principal rules is amended by omitting the words "information on which the proposed decision is based", and substituting the words "reasons for the proposed decision".

10 Retention and disposal of assessment information

- (1) The heading to rule 42 of the principal rules is amended by omitting the words "and disposal".
- (2) Rule 42 of the principal rules is amended by revoking subclause (2), and substituting the following subclause:
"(2) The Registration Authority may continue to hold a copy of the information after the dates in subclause (1) provided that it holds that information in compliance with the Privacy Act 1993."

11 Registration Authority may inquire into matters on own motion

Rule 55(2) of the principal rules is amended by revoking paragraph (a), and substituting the following paragraph:
"(a) carry out an initial investigation of the matter in accordance with rule 58 as if it were a complaint; or".

12 Grounds for not referring complaint to investigating committee

Rule 57 of the principal rules is amended by inserting, after paragraph (b), the following paragraph:
"(ba) the alleged misconduct is insufficiently grave to warrant further

Amendment Rules 2004

investigation; or”.

13 Investigating committee must determine whether or not to refer complaint or inquiry to disciplinary committee

Rule 60(b) of the principal rules is amended by adding the words “on a ground in paragraphs (a) to (f) of rule 57”.

14 Investigating committee must give person complained about opportunity to respond

Rule 63(a) of the principal rules is amended by omitting the words “information on which the proposed decision is based”, and substituting the words “reasons for the proposed decision”.

15 Persons carrying out delegated functions and powers under rules

Rule 71(1) of the principal rules is amended by omitting the words “alternate chairperson” in both places where they occur, and substituting in each case the words “alternate chairpersons”.

16 General provisions about appointments, revocations of appointments, and resignations under this Part

Rule 74(2) of the principal rules is amended by inserting, after paragraph (a), the following paragraph:

“(ab) require a person appointed to a role under this Part not to participate in a matter if the registration Authority considers that, due to a material conflict of interest or otherwise, it would be inappropriate for that person to continue in his or her role in respect of that matter.”.

17 Chairpersons and alternate chairpersons of investigating and disciplinary committees

(1) Rule 83 of the principal rules is amended by inserting, after subclause (1), the following subclause:

“(1A) The Registration Authority may appoint more than one –

“(a) alternate chairperson of investigating committees; and

“(b) alternate chairperson of disciplinary committees.”

(2) Rule 83(3) of the principal rules is amended by omitting the word “The”, and substituting the word “An”.

18 Investigating committee

Rule 84(1)(a) of the principal rules is amended by inserting, after the words “chairperson or”, the word “an”.

19 Disciplinary committee

Rule 85 of the principal rules is amended by revoking subclause (1), and substituting the following subclauses:

“(1) The Registration Authority may appoint, for a particular case or class of cases, a disciplinary committee consisting of –

“(a) the chairperson or an alternate chairperson of disciplinary committees; and

“(b) 1 other person from the list kept under rule 82; and

“(c) 1 person who –

“(i) is not an engineer; and

“(ii) is nominated by a body that the Registration Authority considers to be representative of consumer interests.

“(1A) The Registration Authority may appoint a further 2 persons to a disciplinary committee for a particular case or class of cases if it considers it appropriate or necessary in the circumstances.

“(1B) Any 2 persons appointed under subclause (1A) must consist of –

“(a) 1 person from the list kept under rule 82; and

“(b) 1 person who –

“(i) is not an engineer; and

“(ii) is nominated by the Registration Authority.”

20 Schedule 1 amended

Schedule 1 of the principal rules is amended by –

(a) adding to paragraph (e) the words “and the fields of engineering within which the practice area lies”; and

(b) inserting in paragraph (f), after the expression “2”, the word “independent”; and

(c) revoking paragraph (g), and substituting the following paragraph:

“(g) details of any convictions of the person by any court in New Zealand or elsewhere for an offence punishable by imprisonment for a term of 6 months or more.”

21 Schedule 2 amended

(1) Schedule 2 of the principal rules is amended by omitting the word “equivalence”, and substituting the words “equivalence through assessment by the Registration Authority”.

(2) Schedule 2 of the principal rules is amended by adding, after the words “CPEng equivalence” in both places where they occur, the words “through assessment by the Registration Authority”.

22 Transitional provisions

(1) Every application for registration under rule 8 of the principal rules that has, immediately before the commencement of these rules, been made, must be considered and determined as if these rules had not been made.

(2) Every application for continued registration under rule 23 of the principal rules that has, immediately before the commencement of these rules, been made, must be considered and determined as if these rules had not been made.

(3) Rule 9A(2) of the principal rules (as inserted by these rules) only applies to a request made (under subclause (1) of that rule) on or after 1 January 2005.

(4) All inquiries, investigations, hearings, and disciplinary proceedings under the principal rules that have been commenced before the commencement of these rules and that have not been completed before that commencement are to be continued and completed as if these rules had not been made.

(5) The principal rules, as amended by these rules, apply to any inquiry or complaint commenced or made on or after 1 January 2005 regardless of whether the matter that is the subject of the inquiry or complaint occurred before or after that date.

(6) Subclause (4) overrides subclause (5). 



Michael Armstrong Collins OBE JP FIPENZ
11 December 1933 – 10 August 2004

Mike Collins graduated in nuclear physics from Victoria University in 1957, joining the DSIR as junior scientist. He soon changed fields to biophysics, sparking a life-long interest in magnetic resonance phenomena.

Becoming interested in a new procedure for measuring chemical free radicals, Mike developed techniques for the ranking of coal, and together with Sir Ernest Marsden, published the first of many research papers on free radicals in materials.

A Senior Research Fellowship at the National Physical Laboratory in the UK followed. There he worked with some of the most outstanding people in the world in the area of magnetic resonance. As he observed on his return in 1965, "I discovered my colleagues at home and I were a hell of a lot better than many we had held up in reverence". This realisation that New Zealand science was as good as any, influenced his attitude for the remainder of his working life.

In New Zealand, Mike continued his work in magnetic resonance phenomena, moving up the ranks of the DSIR. He became Director of DSIR's largest laboratory, Physics and Engineering, in 1977, influencing the introduction of satellite remote sensing to New Zealand, and the establishment of the DSIR Computer Network, an early version of an "in-house" Internet system.

He was appointed to Director General in 1989, and under his leadership, DSIR became the first government department to go to full accrual accounting. He was also responsible for consolidating the DSIR from 32 divisions to 10 – forming the basis for the the Crown Research Institutes (CRLs).

In 1992, with the establishment of the CRLs, the DSIR was effectively dismantled. Although Mike retired, he continued to be actively involved with the science and education scene in New Zealand. He established and became the first Director of the Association of Crown Research Institutes; a Director of Victoria Link Ltd, and a Director of Polytechnics International NZ. One of his lesser-known activities was his long association with the New Zealand School science fairs, where he was Chief Judge for the Wellington Regional Science Fair.

Along with his many other science and education roles, Mike was heavily committed to service in the community. He was a JP, and a member of Lions for over 30 years, becoming District Governor in 1999. In 1993 Mike was awarded an OBE and presented with the RSNZ Thompson Medal.

Mike is survived by his wife Bon, and his family.

Thanks to IRL for information supplied. 



Frank Kerslake FIPENZ
21 March 1918 – 23 July 2004

Frank Kerslake was born in Wellington and educated at Wellington Boys College. He joined William Cable Ltd (at that time the largest engineering workshop in New Zealand) as an engineering apprentice, transferring to the structural design office after two years.

During this period, he attended night school and passed the Structural Institution qualifications leading to Registration and Membership of IPENZ. Later recognition gained him Fellowship status of both Institutions as well as the Institution of Mechanical Engineers.

Frank went on to become the Chief Executive Engineer of William Cable Ltd, where he was involved in the repair of the Wanganella on behalf of Lloyds; the design and construction of the Wellington Railway Station; and the destructive testing of electrical cable pylons for installation throughout New Zealand.

In 1959, Frank 'hung up his shingle' and entered the private sector of consulting engineering. He was immediately commissioned by Bowater Engineering of USA to assist with the expansion of Tasman Pulp and Paper at Kawerau. The commission was huge. In three years the practice had evolved from sole practitioner, to Kerslake and Partners – a firm with over one hundred engineers and draughting staff and offices throughout New Zealand.

The firm continued to flourish through the 1960's and 70's with Frank's engineering associations revolving around pulp and paper, meat, dairy industries and hospital services.

On retirement from Kerslake and Partners in 1986, Frank continued his long association with Tasman Pulp and Paper, becoming involved in safety operations. Fletcher Challenge Forests, recognising his expertise in the area, requested his involvement in the preparation of Codes of Practice for Safety on all self-propelled mobile plant in both construction and forestry. The culmination of this work was the gazetting of Safety Regulations with regard to all heavy plant and equipment in the forestry sector, with later development of Codes of Practice.

Frank was recently recognised for his dedication to safety operation in construction by Lloyds of London, and never tiring of his work, had been busy visiting numerous sites around New Zealand.

When not living and breathing engineering, Frank was a good sportsman in the Harrier fraternity and an eternal humourist, the latter being hugely missed by family, friends and colleagues.

Thanks to Warren Thessman FIPENZ, for this tribute. 



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