

SOUTH PACIFIC ENGINEERS ASSOCIATION (SPEA)

RULES

1. ASSOCIATION STRUCTURE AND PURPOSE

1.1 The South Pacific Engineers Association (SPEA) is created on 3 March 2010 to support engineering in the South Pacific region. It is a multi-lateral organisation involving participating national engineering organisations or communities in countries within the geographic region normally associated with the Pacific Islands Forum.

1.2 The object of the SPEA shall be to support the development of engineering and engineering standards in the South Pacific region through actions including but not limited to:

- a. informing engineers and their wider stakeholders within the region on important national and international developments and issues affecting engineering;
- b. contributing to South Pacific engineering knowledge development and dissemination;
- c. supporting the identification, codification and harmonisation of standards to improve engineering practice within the region;
- d. development of competence assessment and registration systems, both in nations and regionally, towards the ultimate goal that regional competence registers will receive wider international recognition;
- e. creating a strong representational voice for engineering in the region, including influencing governments and the Pacific Islands Forum on matters related to engineering, the environment and economic development;
- f. raising the profile of engineering in communities within the region;
- g. building engineering education within the region towards the ultimate goal that regional engineering qualifications will receive wider international recognition;
- h. raising the technical capacity of engineering-related institutions;
- i. representing the region's engineers in the global context; and
- j. creating a network that supports professional development amongst engineers and engineering organisations in the region by regular communication.

1.3 The SPEA is a multi-lateral body to which the following engineering organisations have made commitment as partners, signified by their signed acceptance of the Rules set out below:

- The Fiji Institution of Engineers (FIE).
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- The Institution of Engineers Papua New Guinea (IEPNG).
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- The Institution of Professional Engineers Samoa (IPES).

In addition, the SPEA recognises the commitment of informally organised communities of engineers in the following countries:

- Cook Islands.

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- Tonga.

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- Vanuatu.
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1.4 The partners of the SPEA recognise that where, within a country in the geographic region associated with the Pacific Islands Forum, an organisation is created to represent engineers, that organisation must be considered for potential entry into the SPEA.

1.5 In addition, the SPEA shall recognise:

- a. IPENZ – as a partner, granting it the right to attend the SPEA Council at all times at its own cost, and to advise the Council on any matter, but noting there shall be no national chapter of the SPEA in New Zealand, and IPENZ has no voting representative on the Council.

The Institution of Professional Engineers New Zealand Inc. (IPENZ)

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- b. The Institution of Engineers Australia (Engineers Australia) as a supporting organisation, having no role other than advisory in respect to the governance of the SPEA, but able to attend at its own cost, and have speaking rights to advise the Council.

2. GOVERNANCE

2.1 The membership of the SPEA shall comprise those engineering organisations or engineering communities described in section 1.3 or subsequently admitted according to these Rules, and these shall be known as the chapters of the SPEA.

2.2 Each chapter shall appoint or elect its representative to the Council of the SPEA. In addition, the Council shall include one further person, being a member of any of the chapters, as the President of the SPEA.

2.3 The governing Board of IPENZ shall recognise the Council as the senior decision making body of the SPEA which shall have the decision making

authority over the SPEA as set out in these Rules. The Council of the SPEA shall recognise the important role of IPENZ in providing underpinning support and sharing liabilities, achieved through IPENZ applying its Rule 27 to support the SPEA by giving it a legal form, on an interim basis, to enable its establishment.

- 2.4 Chapters may exist in two forms:
- a. as an entity having a legal identity in its home country;
 - b. as an informal entity within its home country, relying on IPENZ applying its Rule 27 (see Appendix 1), to give a legal identity to the chapter. IPENZ undertakes to favourably consider any request of this nature.
- 2.5 Where a chapter exists under Rule 2.4(a) its independent ability to operate within its own jurisdiction is not affected. Thus, the activities of that chapter within its own national jurisdiction shall occur according to the Rules of that entity. The need for that entity to continue to meet any national obligations, for example, under local legislation, shall be recognised by the SPEA, and in undertaking its activities the SPEA shall endeavour to ensure that each such chapter is not compromised in its ability to perform its national obligations.
- 2.6 The following chapters are recognised under Rule 2.4(a) at the time that the SPEA is created :
- a. The Fiji Institution of Engineers (FIE);
 - b. The Institution of Engineers Papua New Guinea (IEPNG).
 - c. The Institution of Professional Engineers Samoa (IPES);
- 2.7 The following chapters are recognised under Rule 2.4(b) at the time that the SPEA is created:
- a. Cook Islands;
 - b. Tonga;
 - c. Vanuatu.
- 2.8 Any chapter created under Rule 2.4(b) may form a local institution or other body to give legal form to the chapter within that country. Further chapters may be recognised under Rule 2.4(b), or chapters may be transferred from the list in Rule 2.7 to the list in Rule 2.6 provided that:
- a. The organisation requesting recognition as a chapter is demonstrably the national lead organisation for engineers in the country, or a group of engineers has been formed which can demonstrate wide support amongst engineers in the nation,
 - b. A Committee has been formed and a Chairperson has been elected,
 - c. A general meeting has been held, which has formally resolved to seek formation of a chapter in the nation, to agree to these Rules, and to support the subscription structure for the SPEA,
 - d. The Council is of the view that a viable chapter can be formed,
 - e. That any advice from IPENZ is taken into account by the Council,
 - f. The authorised senior office holder of the national chapter signs on behalf of the chapter to indicate acceptance of these Rules, and
 - g. There is at least 80% support amongst the Council of the SPEA.

- 2.9 The President of the SPEA shall be elected by the Council of the SPEA using a preferential voting system. Upon election as President of the SPEA the person concerned must act for SPEA as a whole and thus must vacate any role he or she holds as a chapter representative to the SPEA, and the chapter concerned shall appoint or elect a new representative.
- 2.10 Responsibility for the actions of the SPEA (as distinct from those of the individual chapters which take responsibility for their own activities), shall be borne by the organisation through which the SPEA is given legal identity (IPENZ in the interim).
- 2.11 In this context, and whilst IPENZ is providing the legal identity on an interim basis, if the SPEA Council undertakes activities outside the objects of the SPEA, that create unreasonable liability relative to the reserves held by the SPEA, or against the advice of IPENZ on what constitutes reasonable and prudent action then IPENZ retains the right to seek compensation from the chapters.
- 2.12 In the exercise of its responsibilities the Council shall be able to call upon IPENZ for support.
- 2.13 On the request of the Council, IPENZ shall seek suitable insurance to indemnify persons exercising responsibilities under these Rules.
- 2.14 In the operation of the SPEA, if a matter arises that is not explicitly covered by these Rules, Rule 27 of IPENZ shall be applied, or if it does not cover the matter, the Council shall endeavour to make decisions consistent with these Rules and Rule 27 of IPENZ.

3. MEMBERSHIP OF CHAPTERS

- 3.1 Whilst each chapter determines its own membership structure, if changes are made, each chapter should move towards a nomenclature and definition of membership classes consistent with international good practice including as many of the following as are relevant:

Engineer classes:

- a. Student member – a person studying towards a qualification which is substantially equivalent to a qualification recognised under one of the Dublin, Sydney or Washington Accords (see www.ieagreements.org).
- b. Graduate member – a person who holds a recognised engineering qualification which is substantially equivalent to a qualification recognised under one of the Dublin, Sydney or Washington Accords.
- c. Associate member – a person who has passed a competence assessment for which the standard is substantially equivalent to that set out for engineering technicians in the exemplar competences established by the International Engineering Alliance (see www.ieagreements.org).
- d. Technical member – a person who has passed a competence assessment for which the standard is substantially equivalent to that set out for engineering technologists in the exemplar competences established by the International Engineering Alliance.
- e. Professional member – a person who has passed a competence assessment for which the standard is substantially equivalent to that set

out for professional engineers in the exemplar competences established by the International Engineering Alliance.

- f. Fellow - a member recognised as having made a substantial and eminent contribution to the engineering profession, and have been an associate, technical or professional member for at least three years.

Non-engineer classes:

- g. Affiliate member – a person who has a technical interest in engineering or technology, but insufficient formal qualification to be recognised in another membership class.
- h. Companion – a person who is not an engineer but who holds a position of responsibility in relation to engineering.
- i. Honorary Member – a person who is not necessarily an engineer but who is recognised for eminence in a field related to engineering or its application in the community.

3.2 Each chapter shall prescribe a Code of Ethics and require its members to adhere to that code. If changes are made, each chapter shall move towards the code set out in Appendix 2.

3.3 Each chapter should place an obligation on its members to perform their engineering activities in a careful and competent manner.

3.4 Each chapter of SPEA should prescribe Regulations (the “Disciplinary Regulations”) that:

- a. Set out the procedures for the investigation, hearing and determination of complaints against a member.
- b. Allow for orders to be made if a complaint is upheld, for example:
 - (i) That such member be expelled from membership
 - (ii) That such member be suspended from membership for any period
 - (iii) That such member be suspended from the Membership until such time as the member has fulfilled requirements for professional development
 - (iv) That if by a prescribed date the member fails to fulfil requirements for professional development such member be suspended from membership for a specified period of time
 - (v) That such member be reprimanded or admonished
 - (vi) That the nature of the breach, the name of the member and the order made against the member be publicised.

3.5 Chapters may adopt the disciplinary regulations set out in Appendix 3, subject to any necessary amendments.

4. COUNCIL AND ANNUAL GENERAL MEETING

4.1 The financial year of the SPEA shall commence on 1 October each year.

4.2 The Annual General Meeting of the SPEA Council shall be held as close as possible to the end of each Financial Year at a time and date set by the Council.

- 4.3 The President shall present an annual report on activities to the Annual General Meeting. The annual report shall also cover the use of funds.
- 4.4 Special General Meetings of the SPEA Council may be called by the Council or at the written request of at least two chapters.
- 4.5 Any chapter which fails to remain fully financial shall be required to stand down from the Council.
- 4.6 Including General Meetings, the Council shall meet at least three times per year, such meetings being conducted face to face, by teleconference, video link or other electronic means. The quorum shall be two-thirds of the total Council membership.
- 4.7 Unless the Council decides otherwise, members of the chapters may observe Council meetings at their own cost.
- 4.8 Unless otherwise specified in these Rules, decisions of the Council are made by majority vote of those present if five or more Council members are present, or at least two-thirds majority if four or less members are present, there being no casting vote. In casting his/her vote the President shall act for the good of the SPEA as a whole.
- 4.9 The President shall preside at each Council and in his or her absence another member of the Council shall be elected to chair the meeting.
- 4.10 Prior to the annual general meeting, each chapter shall elect its representative to the Council, and the term shall normally be for one or two years from the date of the relevant annual general meeting, normally renewable for up to three (3) consecutive terms unless the Council decides otherwise.
- 4.11 The President shall hold office for a term of two years, commencing at the end of the relevant annual general meeting. The Council shall elect the President of the SPEA by secret ballot, using a preferential voting system. A President may stand to be re-elected for a second consecutive term. The election shall occur at the Annual General Meeting, or failing that by postal or electronic ballot of all chapters as soon as possible thereafter. The Council shall appoint a returning officer.
- 4.12 Nominations shall be open for a period not exceeding one month prior to the Annual General Meeting, and shall be closed during the Annual General Meeting.
- 4.13 Nominations must be made by a chapter, and acceptance of nomination must be verified for a nomination to be valid.
- 4.14 Candidates must be from a chapter which is fully financial at the time of the election.
- 4.15 As a transitional arrangement, and until a President can be elected by the Council, IPENZ shall nominate a person to act as interim chair of the Council, holding the rights and responsibilities of the President for the necessary time.

5. SUBSCRIPTIONS

- 5.1 The Council of the SPEA shall set the subscription to be paid by each chapter. This subscription shall be sufficient to cover the overall running costs of the SPEA including but not limited to activities undertaken and authorised by the Council as being in the interests of the region as a whole.
- 5.2 The formula for setting the annual subscription shall be based on the total number of members of the chapter on 1 October as follows:

No. of members	No. of units	No. of members	No. of units
0-25	1	601-800	7
26-50	2	801-1000	8
51-100	3	1001-1200	9
101-200	4	1201-1400	10
201-400	5	1401-1600	11
401-600	6	> 1600	12

- 5.3 In setting the subscriptions, the Council of the SPEA must take into account any advice provided by IPENZ as to whether the proposed subscriptions are sufficient to meet the costs.
- 5.4 At its discretion, and on an interim basis, IPENZ may choose to contribute to payments of subscriptions by individual chapters
- 5.5 The subscription year shall commence on 1 October each year.
- 5.6 Chapters shall be regarded as fully financial provided their subscription is paid within six months of the commencement of the subscription year, or within three months of the date of admission to the SPEA, whichever is the later.

6. REPRESENTATION

- 6.1 Each chapter should present and represent itself as part of the SPEA.

7. AMENDMENT TO RULES

- 7.1 Amendments to these Rules may be made by the Council according to the following procedure:
- The proposal may be reviewed by IPENZ which may provide a commentary about it (but only whilst IPENZ is providing the legal identity for the SPEA).

- b. The proposed change, the rationale for it and any commentary by IPENZ is to be circulated to all Chapters at least ninety (90) days prior to the date of the Council meeting at which the change is proposed for approval.
- c. If Rule 7.1(a) is relevant and IPENZ does not support the proposal it shall have the opportunity to present its views to the Council prior to voting.
- d. The proposal receives the support of at least 80% of the chapters, either by voting at the Council meeting, or by presentation of a written proxy vote.
- e. No amendment of the proposal shall be allowed without re-taking step b.
- f. Unless the Council otherwise decides, the amended Rules shall come into effect immediately.

8. DISSOLUTION OF THE SPEA OR A NATIONAL CHAPTER

- 8.1 The Council, after considering advice from IPENZ, may dissolve the SPEA provided that at least one of the following criteria is satisfied:
 - a. The chapters of the SPEA request the dissolution, as determined by a 80% majority of those present at a Special General Meeting called for the purpose of discussing a motion for dissolution, but in considering such a request the Council must also seek to obtain the views of chapters not able to be at the Special General Meeting.
 - b. The Council and IPENZ are of the view that the Association is non-viable as evidenced by poor financial performance or lack of activity.
- 8.2 In the event of the dissolution of SPEA, remaining funds shall be transferred to IPENZ, and in so far as is reasonably possible, the Board of IPENZ must follow any direction previously given by the Council for the use of or distribution of the funds to further the objects of the SPEA.
- 8.3 The Council, after considering advice from IPENZ, may remove recognition of a national chapter of the SPEA provided that at least one of the following criteria is satisfied:
 - a. The Chapter itself requests the removal from recognition,
 - b. The Council is of the view that the Chapter is non-viable as evidenced by poor financial performance, lack of activity or failure to form a Committee for an extended period of time.

9. COMPETENCE REGISTERS

- 9.1 The SPEA and IPENZ recognise that some chapters operate national registers according to the legislation in their own jurisdiction. Whilst the autonomy of these registers is recognised, when making changes to standards or procedures the chapters should improve conformity with international good practice, and may seek advice from IPENZ in doing so.
- 9.2 Subject to the approval of the Council, any chapter may operate a national section of one or more of three South Pacific regional registers with the following titles:
 - South Pacific Professional Engineer – SPPEng(nation)
 - South Pacific Engineering Technology Practitioner – SPETPract(nation)
 - South Pacific Certified Engineering Technician – SPCertETn(nation)

where “nation” is the name of the jurisdiction of the chapter, subject to the conditions set out below.

9.3 The standards for the registers should be benchmarked to international good practice, and IPENZ should be invited to provide moderation of the standard and training of assessors on a cost recovery basis. In particular, the following requirements should be observed in establishing the standard:

- Candidates should hold a tertiary qualification deemed substantially equivalent to the relevant Accord of the International Engineering Alliance,
- Candidates should have passed a competence assessment against a standard benchmarked to the exemplar competence standard of the International Engineering Alliance,
- Candidates should be at least seven years post-graduation
- Candidates should have at least two years in responsible charge of engineering activities
- Candidates should be required to demonstrate current competence periodically (e.g. 5-yearly) in order to continue their registration.

9.4 The regulations governing the registers shall as closely as possible mirror the exemplar regulations set out in Appendix 4.

9.5 A chapter may request that IPENZ or another chapter operate its national section of the regional register, granting IPENZ or the other chapter the authority to set fees that cover the costs concerned.

10. ACCREDITATION OF QUALIFICATIONS

10.1 Chapters of the SPEA in whose jurisdiction tertiary qualifications in engineering are offered may appoint either IPENZ or Engineers Australia to be their accrediting agent.

11. PROFESSIONAL DEVELOPMENT

11.1 The Council or groups of Chapters of the SPEA may agree programmes of professional development to be undertaken across the region.

11.2 The risk associated with professional development activities shall be borne by either the local chapter (if delivered in only one nation) or a group of chapters if the delivery occurs in more than one jurisdiction.

12. ADMINISTRATION

12.1 Administration of the SPEA Council and management of finances etc. for SPEA as a whole shall be undertaken by IPENZ in the interim.

12.2 At the request of the Council, IPENZ shall provide a website for SPEA (www.spengineer.org).

12.3 The Council shall approve the visual identity to be used by the SPEA.

12.4 Operating procedures shall be established by the Council and IPENZ to ensure that proper financial records, meeting acceptable financial reporting standards are maintained.

13. CONTRACTS

13.1 The Council of SPEA may seek to obtain funding from aid-granting and other agencies to support its work programmes.

13.2 Whilst IPENZ is providing the legal identity for SPEA, contracts for service resulting from successful bids for funding must be agreed with IPENZ, which shall normally act as the contracting party on behalf of SPEA, unless an organisation that is a chapter is better able to become the contracting party and assume the liabilities of the contract.

APPENDICES

- 1. IPENZ RULE 27**
- 2. EXEMPLAR CODE OF ETHICS**
- 3. EXEMPLAR DISCIPLINARY REGULATIONS**
- 4. EXEMPLAR COMPETENCE REGISTER REGULATIONS**

APPENDIX 1

RULE 27 TECHNICAL INTEREST GROUPS AND SPECIAL INTEREST GROUPS

27.1 CREATION OF TECHNICAL INTEREST GROUPS AND SPECIAL INTEREST GROUPS

27.1.1 On request by twelve or more Financial Members, the Board may create a Technical Interest Group or Special Interest Group as a subsidiary body of the Institution, and specify the domain of activity and name for each Group so created.

27.1.2 The Board may agree that the Group be a joint group with one or more other organisations, and if so, declare whether the Institution or one of the other organisations shall carry responsibility for the activities of the Group.27.1.3. In the event that the responsibility is carried by another organisation then the Group shall be constructed according to the rules of that organisation for creation, operation and dissolution of such groups, in which case the remainder of these Technical Interest Group and Special Interest Group Rules shall not apply.

27.1.3 In the event that any part of Rule 27 is found to be in conflict with other Rules of the Institution then the other Rules of the Institution shall take precedence so that all activities of Technical Interest Groups and Special Interest Groups and their members are in accord with the Rules of the Institution as a whole.

27.2 OBJECT

27.2.1 The Object of each Technical Interest Group shall be the advancement of the Object of the Institution within the domain of activity of the Technical Interest Group, by:

- a. informing members of the Group on important national and international developments and issues that lie within the domain of activity;
- b. contributing to knowledge development in the domain of activity;
- c. supporting the identification of good engineering practice within the domain of activity;
- d. preparing informed comment on public policy issues within the domain of activity; and
- e. creating a network amongst members with similar technical interests by regular communication.

27.2.2 The Object of each Special Interest Group shall be the advancement of the Object of the Institution within the domain of activity of the Special Interest Group, by:

- a. informing members of the Group on important national and international developments and issues that lie within the domain of activity;
- b. contributing to knowledge development in the domain of activity;
- c. supporting the identification of good engineering practice within the domain of activity;
- d. preparing informed comment on public policy issues within the domain of activity; and

- e. creating a network amongst members with similar special interests by regular communication.

27.3 MEMBERSHIP

- 27.3.1 Every Member of the Institution who expresses an interest in joining and who pays the relevant subscription shall be a member of any Group, and shall be entitled to have their Institution Membership class recognised in relation to the Group.
- 27.3.2 If the Board has agreed that a Group be a joint group with another organisation, every member of that organisation who expresses an interest to join and who pays the relevant subscription shall be a member of the Group, and if they hold a competence-graded membership class within that organisation shall be entitled to have that membership class recognised in relation to the Group.
- 27.3.3 Persons eligible to enter a competence-graded Membership class of the Institution or who hold a recognised engineering qualification but who are not Members of the Institution may be admitted to membership of the Group only if the Committee agrees to their admission, and the Board is satisfied that the number of members admitted under this rule is small in relation to those admitted under Rule 27.3.1 or Rule 27.3.2.
- 27.3.4 Subject to permission of the Board, and at the discretion of the Committee other persons, beyond those covered by Rules 27.3.1 to 27.3.3, who express an interest in the domain of activity, and whose inclusion adds value to the activities of a Group, may be permitted to become members of the Group, provided that they pay the relevant subscription.
- 27.3.5 Subject to permission of the Board, and at the discretion of the Committee of each Group, an organisation expressing an interest in the domain of activity, and whose inclusion adds value to the activities of the Group as a whole, may be invited to become an organisational member of the Group, provided that it pays the relevant subscription.
- 27.3.6 Each organisation that is a member of a Group shall be entitled to nominate one or more persons who shall be treated as if they are individual members of the Group, the number of such nominations per organisation being decided from time to time by the Committee.
- 27.3.7 Every person who is a member or nominated by an organisation that is a member of a Group shall be entitled to attend general meetings of the Group and to vote.
- 27.3.8 Membership of a Group in itself does not confer the rights of Membership of the Institution.
- 27.3.9 Members of a Group who have not paid the subscription within a period of time prescribed by the Board may be removed from membership of the Group at the discretion of the Board.
- 27.3.10 If a Group is largely composed of members who are resident outside New Zealand, and carries out its primary activities outside New Zealand, the Board may give permission for the Group to establish competence-graded membership classes, provided that these classes are consistent with the competence-graded Membership classes of the Institution.

27.4 CHAIRPERSON AND COMMITTEE

- 27.4.1 The affairs of each Group shall be managed by a Committee chaired by a Chairperson.
- 27.4.2 The Committee shall contain no less than two members, in addition to the Chairperson, who are elected pursuant to Rule 27.6.1 and co-opted members, provided that the total number of Committee members is no more than nine.
- 27.4.3 The terms of tenure of the positions of Chairperson and Committee member are one year to the next Annual General Meeting.
- 27.4.4 No member of a Group shall be prevented from holding office on the Committee by reason of their prior service on the Committee, save that the prior permission of the Board shall be required in order for a member who has served for three or more one-year terms as Chairperson to be elected to that position for a further term.
- 27.4.5 Any Group may choose to designate titles for positions within the Committee to associate them with particular roles.
- 27.4.6 Any Group Committee may form sub-committees to perform particular roles, and co-opt members to those sub-committees, provided that all decisions of a sub-committee are subject to ratification by the Committee.
- 27.4.7 Decisions of the Committee are made by majority vote of those present if five or more Committee members are present, or at least two-thirds majority if four or less members are present, there being no casting vote.
- 27.4.8 Notwithstanding the other provisions of Rule 27.4, if a Group is largely composed of members who are resident outside New Zealand, the Board may extend the terms of tenure of the Chairperson and Committee members from one to two or three years, may define representative geographic regions and may impose a requirement that at least one Committee member come from each region.

27.5 ANNUAL MEETING AND RECEIPT OF ANNUAL REPORT

- 27.5.1 The Financial Year of the Institution shall apply to each Group unless the Board agrees otherwise.
- 27.5.2 The Annual General Meeting of each Group shall be held within three months of the end of each Financial Year at a time set by the Committee.
- 27.5.3 The Chairperson shall present an annual report on activities to the Annual General Meeting, and this will normally be distributed to all Group members.
- 27.5.4 The Committee shall prepare a report on Group activities for inclusion in the Institution's Annual Report.
- 27.5.5 The annual report shall cover activities of the Group and the use of funds by the Group.

27.6 ELECTION OF OFFICERS

- 27.6.1 The election of each Group Chairperson and Committee shall occur at the Annual General Meeting, or failing that by postal ballot of all members as soon as possible thereafter.
- 27.6.2 Only individual persons and not organisations may be elected to the Committee or as Chairperson.
- 27.6.3 Nominations shall be open for a period not exceeding one month prior to the Annual General Meeting, and shall be closed during the Annual General Meeting of each Group.
- 27.6.4 Nominations must be made by an individual member of the Group who personally, or whose organisation, is a member of the Group, and acceptance of nomination must be verified for a nomination to be valid
- 27.6.5 Candidates must be fully financial at time of election.
- 27.6.6 Members of the Group or nominees of organisations that are members of the Group may be co-opted onto the Committee of that Group by a two-thirds majority vote of the elected members of the Committee.

27.7 INCOME AND EXPENDITURE

- 27.7.1 The Committee of each Group shall recommend membership subscriptions to the Board which shall be sufficient to cover the normal operating expenses of the Group.
- 27.7.2 Subscription income shall be expended only in furtherance of the Object of the Group and in accordance with procedures specified by the Board for ensuring that the Group behaves responsibly towards the Institution as a whole.
- 27.7.3 Groups may charge fees for specific activities for which the costs cannot be met from subscription income provided that the fees charged and the spending of them is in accordance with procedures specified by the Board for ensuring that the Group behaves responsibly towards the Institution as a whole.

27.8 MEETINGS

- 27.8.1 Meetings of the Committee and meetings of each Group shall be held as required.
- 27.8.2 Special General Meetings of the Group may be called by the Committee on its own initiative or at the written request of ten members for the purpose of discussing the performance of the Group.
- 27.8.3 Visitors may be introduced by members to Group meetings subject to the approval of the Chairperson, and such visitors may take part in discussions on the invitation of the Chairperson.
- 27.8.4 The Chairperson of the Group, when present, shall preside at each Group meeting and in his or her absence another member of the Committee shall preside. If no such member is present then the members of the Group present shall appoint a Chairperson from among their members.

27.8.5 A quorum for the Committee shall be the lesser of three or two-thirds of the total Committee. For a Special General Meeting of the Group the quorum shall be ten members. There shall be no quorum for the Annual General Meeting of the Group.

27.9 PUBLICATIONS AND OTHER OUTPUTS OF ACTIVITY

Groups may prepare publications and other forms of output within their domain of activity, and release these outside the membership provided that they have been prepared in accordance with procedures specified by the Board for such activities within the Institution.

27.10 REPRESENTATION

27.10.1 At all times and in all forms of output that it creates, each Group must present and represent itself as either a Technical Interest Group or a Special Interest Group of the Institution, except that in cases where the Board has agreed that the Group be a joint group with another organisation the Group may also present and represent itself in relation to that other organisation.

27.10.2 In representing themselves in their own activities, outside the activities of the Group, those members of the Group: 27.10.2.1 who hold a competence-graded Membership arising from one or more of Rules 27.3.1, 27.3.2 or 27.3.10 and whose competence is aligned with the domain of activity of the Group, may use the title of the relevant named class of Membership in relation to the Group

27.10.3 Other persons admitted under Rules 27.3.1, 27.3.2 or 27.3.10, may use the title member of the Group

27.10.4 Other members may only use the title of affiliate member of the Group, and may not imply by any means that they are Members of the Institution itself.

27.11 DISSOLUTION OF A GROUP

27.11.1 The Board, either acting alone or in conjunction with any other organisation with which the Group is a joint Group, may dissolve a Group provided that at least one of the following criteria is satisfied:

- a. The members of the Group request the dissolution, as determined by a 75% majority of those present at a Special General Meeting called for the purpose of discussing a motion for dissolution.
- b. The Board and any other organisation with whom the Group is a joint Group are of the view that the Group is non-viable as evidenced by poor financial performance, lack of activity, or failure to form a Committee for an extended period of time.
- c. The Board has agreed that the Group be a joint group with another organisation, and that organisation requests dissolution.

27.11.2 In expending any unspent Group funds, in so far as is reasonably possible, the Board must follow any direction previously given by the Group for the use of the funds.

APPENDIX 2

EXEMPLAR CODE OF ETHICS

Institution of Engineers **XXX**

Code of Ethics (to apply from **date**)

The respect which society accords the engineering professions is earned and maintained by its members demonstrating a strong and consistent commitment to ethical values. These commitments are additional to the obligations, which every member of society is required to observe, such as obeying the law, and reflect the additional responsibility expected of all professionals. It therefore follows that the Institution must maintain an appropriate Code of Ethics, to publish it for the information of the public and to enforce it impartially. This Code must be responsive to the changing expectations of both society and the profession and the global standards to which the Institution subscribes.

The Code of Ethics is based on the five fundamental ethical values as follows:

- Protection of life and safeguarding people
- Sustainable management and care for the environment
- Commitment to community well-being
- Professionalism, integrity and competence
- Sustaining engineering knowledge

The Code consists of three Parts. The first is a set of five fundamental ethical values. These values are intended to inform Members of the high ideals of professional life. Part II provides expanded guidelines. These guidelines are not exhaustive - they are offered as a guide to the understanding and intentions of Part I. They should be read with Part I as a whole and given a free and liberal meaning. They range from exhortations to excellence to prescriptive directions as to what constitutes ethical professional behaviour. Part III sets out the minimum standards of behaviour against which the behaviour of Members will be judged in terms of deciding if they have reasonably complied with the requirement in the Rules of the Institution to behave ethically.

Members will find in the three Parts assistance in deciding the proper response to most of the situations they will meet in their professional life. In the final analysis, the judgement of the Member's peers as to what the 'reasonable professional' would have done faced with the same situation and applying the same provisions in Part III will prevail.

The Institution may issue information such as definitions of terminology to further assist Members interpret the Code. Such information does not form part of the Code.

Part I – Values

- 1. Protection of Life and Safeguarding People:** Members shall recognise the need to protect life and to safeguard people, and in their engineering activities shall act to address this need.
- 2. Professionalism, Integrity and Competence:** Members shall undertake their engineering activities with professionalism and integrity and shall work within their levels of competence.

3. **Commitment to Community Well-being:** Members shall recognise the responsibility of the profession to actively contribute to the well-being of society and, when involved in any engineering activity shall endeavour to identify, inform and consult affected parties.
4. **Sustainable Management and Care for the Environment:** Members shall recognise and respect the need for sustainable management of the planet's resources and endeavour to minimise adverse environmental impacts of their engineering activities for both present and future generations.
5. **Sustaining Engineering Knowledge:** Members shall seek to contribute to the development of their own and the engineering profession's knowledge, skill and expertise for the benefit of society.

Part II – Guidelines

1. **Protection of Life and Safeguarding People:** Members shall recognise the need to protect life and to safeguard people and in their engineering activities shall act to address this need

Under this clause you should have due regard to:

- 1.1 Giving priority to the safety and well-being of the community and having regard to this principle in assessing obligations to clients, employers and colleagues.
- 1.2 Ensuring that reasonable steps are taken to minimise the risk of loss of life, injury or suffering which may result from your engineering activities, either directly or indirectly.
- 1.3 Drawing the attention of those affected to the level and significance of risk associated with the work.
- 1.4 Assessing and taking reasonable steps to minimise potential dangers involved in the construction, manufacture and use of outcomes of your engineering activities.

2. **Professionalism, Integrity and Competence:** Members shall undertake their engineering activities with professionalism and integrity and shall work within their levels of competence.

Under this clause you should have due regard to:

- 2.1 Exercising your initiative, skill and judgement to the best of your ability for the benefit of your employer or client.
- 2.2 Giving engineering decisions, recommendations or opinions that are honest, objective and factual. If these are ignored or rejected you should ensure that those affected are made aware of the possible consequences. In particular, where vested with the power to make decisions binding on both parties under a contract between principal and contractor, acting fairly and impartially as between the parties and (after any appropriate consultation with the parties) making such decisions independently of either party in accordance with your own professional judgement.
- 2.3 Accepting personal responsibility for work done by you or under your supervision or direction and taking reasonable steps to ensure that anyone working under your authority is both competent to carry out the assigned tasks and accepts a like personal responsibility.
- 2.4 Ensuring you do not misrepresent your areas or levels of experience or competence.
- 2.5 Taking care not to disclose confidential information relating to your work or knowledge of your employer or client (or former employer or client) without the agreement of those parties.

- 2.6 In providing advice to more than one party, ensuring that there is agreement between the parties on which party is the primary client, and what information may be shared with both parties
- 2.7 Disclosing any financial or other interest that may, or may be seen to, impair your professional judgement.
- 2.8 Ensuring that you do not promise to, give to, or accept from any third party anything of substantial value by way of inducement.
- 2.9 First informing another Member before reviewing their work and refraining from criticising the work of other professionals without due cause.
- 2.10 Upholding the reputation of the Institution and its members, and supporting other members as they seek to comply with the Code of Ethics.
- 2.11 Following a recognised professional practice (Model Conditions of Engagement are available) in communicating with your client on commercial matters.

3. Commitment to Community Well-being: Members shall recognise the responsibility of the profession to actively contribute to the well-being of society and, when involved in any engineering activity shall, endeavour to identify, inform and consult affected parties.

Under this clause you should have due regard to:

- 3.1 Applying your engineering skill, judgement and initiative to contribute positively to the well-being of society.
- 3.2 endeavouring to identify, inform and consult parties affected, or likely to be affected, by your engineering activities
- 3.3 Recognising in all your engineering activities your obligation to anticipate possible conflicts and endeavouring to resolve them responsibly, and where necessary utilising the experience of the Institution and colleagues for guidance.
- 3.4 Treating people with dignity and having consideration for the values and cultural sensitivities of all groups within the community affected by your work.
- 3.5 Endeavouring to be fully informed about relevant public policies, community needs, and perceptions, which affect your work.
- 3.6 As a citizen, using your engineering knowledge and experience to contribute helpfully to public debate and to community affairs except where constrained by contractual or employment obligations.

4. Sustainable Management and Care of the Environment: Members shall recognise and respect the need for sustainable management of the planet's resources and endeavour to minimise adverse environmental impacts of their engineering activities for both present and future generations.

Under this clause you should have due regard to:

- 4.1 Using resources efficiently.
- 4.2 Endeavouring to minimise the generation of waste and encouraging environmentally sound reuse, recycling and disposal.
- 4.3 Recognising adverse impacts of your engineering activities on the environment and seeking to avoid or mitigate them.
- 4.4 Recognising the long-term imperative of sustainable management throughout your engineering activities. (Sustainable Management is often defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs).

5. Sustaining Engineering Knowledge: Members shall seek to contribute to the development of their own and the engineering profession's knowledge, skill and expertise for the benefit of society.

Under this clause you should have due regard to:

- 5.1 sharing public domain engineering knowledge with other engineers so that the knowledge may be used for the benefit of society.
- 5.2 Seeking and encouraging excellence in your own and others' practice of engineering.
- 5.3 Contributing to the collective wisdom of the profession .
- 5.4 Improving and updating your understanding of the engineering and encouraging the exchange of knowledge with your professional colleagues.
- 5.5 Wherever possible sharing information about your experiences and in particular about successes and failures.

Part III – Minimum Standards of Acceptable Ethical Behaviour by Members

General obligations to society

1. Take reasonable steps to safeguard health and safety

A Member must, in the course of his or her engineering activities, take reasonable steps to safeguard the health and safety of people.

2. Have regard to effects on environment

- (1) A Member must, in the course of his or her engineering activities,—
 - (a) have regard to reasonably foreseeable effects on the environment from those activities; and
 - (b) have regard to the need for sustainable management of the environment.
- (2) In this context, **sustainable management** means management that meets the needs of the present without compromising the ability of future generations (including at least the future generations within the anticipated lifetime of the end products and by-products of activities) to meet their own reasonably foreseeable needs.

3. Act with honesty, objectivity, and integrity

A Member must act honestly and with objectivity and integrity in the course of his or her engineering activities.

General professional obligations

4. Not misrepresent competence

A Member must—

- a) not misrepresent his or her competence; and
- b) undertake engineering activities only within his or her competence; and
- c) not knowingly permit engineers whose work he or she is responsible for to breach paragraph (a) or paragraph (b).

5. Not misrepresent Membership status

A Member must not (in connection with a business, trade, employment, calling, or profession) make a false or misleading representation, or knowingly permit another person to make a false or misleading representation, that services are supplied by a Member of the Institution.

6. Inform others of consequences of not following advice

- (1) A Member who considers that there is a risk of significant consequences in not accepting his or her professional advice must take reasonable steps to inform persons who do not accept that advice of those significant consequences.
- (2) In this context, **significant consequences** means consequences that involve—

- (a) significant adverse effects on the health or safety of people; or
- (b) significant damage to property; or
- (c) significant damage to the environment.

7. Not promise, give, or accept inducements

A Member must not—

- (a) promise or give to any person anything of substantial value intended to improperly influence that person's decisions that relate to the Member's activities; or
- (b) accept from any person anything of substantial value intended to improperly influence his or her professional engineering decisions.

Obligations to employers and clients

8. Not disclose confidential information

- (1) A Member must not disclose confidential information of an employer or client without the agreement of the employer or client.
- (2) Subclause (1) does not apply if—
 - a) the failure to disclose information would place the health or safety of people at significant and immediate risk; or
 - b) the Member is required by law to disclose that information.

9. Not misuse confidential information for personal benefit

A Member who obtains another person's confidential information in connection with one purpose in the course of his or her engineering activities must not use that information for another purpose that is to his or her own personal benefit.

10. Disclose conflicts of interest

A Member must disclose to an employer or client any financial or other interest that is likely to affect his or her judgement on any engineering activities he or she is to carry out for that employer or client.

Obligations owed to other engineers

11. Not review other engineers' work without taking reasonable steps to inform them and investigate

- (1) A Member who reviews another engineer's work for the purpose of commenting on that work must take reasonable steps to—
 - (a) inform that engineer of the proposed review before starting it; and
 - (b) investigate the matters concerned before commenting.
- (2) Subclause (1) does not apply if taking those steps would result in there being a significant and immediate risk of harm to the health or safety of people, damage to property, or damage to the environment.

APPENDIX 3

EXEMPLAR DISCIPLINARY REGULATION

INSTITUTION OF ENGINEERS XXX (the Institution)

DISCIPLINARY REGULATIONS

1 Commencement

These regulations come into force on (date).

2 Interpretation

In these regulations unless the context otherwise requires:-

material conflict of interest means, in relation to any matter, a financial or other interest that is likely to affect his or her judgement on that matter;

notify means send a written notice (by post, email, fax, or other similar means of communication) to the last known address of the person concerned; and

professional development includes but is not be limited to undertaking education or training or working under supervision.

Executive Officer means a person appointed by the Council of the Institution to administer activities under these regulations.

3 How to complain about a Member

(1) A person may complain to the Institution about the conduct of a Member in accordance with this clause and the Rules of the Institution.

(2) The complaint must be made in writing and contain the complainant's name and contact details.

(3) The Institution must give all reasonable assistance that is necessary in the circumstances to enable a person who wishes to make a complaint to put the complaint in writing.

4 Institution may inquire into matters on own motion

(1) The Institution may inquire into any matter under these regulations if it has reason to suspect that a Member may have breached the Rules of the Institution.

(2) If subclause (1) applies, the Institution may –

(a) carry out an initial investigation of the matter in accordance with clause 7 as if it were a complaint; or

(b) if a complaint on that matter has already been made, continue to inquire into the matter even if the complaint is subsequently withdrawn.

5 Institution must refer complaint to Disciplinary Committee unless grounds for not doing so

The Institution must, as soon as practicable carry out an initial investigation of the complaint in accordance with clause 9 and—

(a) refer the complaint to an Disciplinary Committee; or

(b) dismiss the complaint on a ground in clause 6.

6 Grounds for not referring complaint to Disciplinary Committee

The Institution may dismiss a complaint without referring it to a Disciplinary Committee if the Chairperson of Disciplinary Committees decides under clause 5 that—

- (a) there is no applicable ground of discipline under the Rules of the Institution; or
- (b) the subject matter of the complaint is trivial; or
- (c) the alleged breach of the Rules is insufficiently grave to warrant further investigation; or
- (d) the complaint is frivolous or vexatious or is not made in good faith; or
- (e) the person alleged to be aggrieved does not wish action to be taken or continued; or
- (f) the complainant does not have a sufficient personal interest in the subject matter of the complaint; or
- (g) an investigation of the complaint is no longer practicable or desirable given the time elapsed since the matter giving rise to the complaint.

7 Way in which decision on whether or not to refer complaint to Disciplinary Committee must be made

The Institution must carry out an initial investigation of a complaint against the grounds in clause 6 in accordance with the following process:

- (a) the Institution must notify the Member complained about of the general nature of the complaint before commencing the investigation; and
- (b) a Complaints Research Officer must carry out the initial investigation of the complaint and recommend to the Chairperson of Disciplinary Committees that the complaint proceed or be dismissed on a ground in clause 6; and
- (c) the Chairperson of Disciplinary Committees or Complaints Research Officer may seek to verify the information in the complaint by requesting a statutory declaration by the complainant; and
- (d) after considering the Complaints Research Officer's recommendation, the Chairperson must decide whether the complaint proceeds, or if it is dismissed on a ground in clause 6.

8 Institution must notify and implement decision

The Institution must —

- (a) notify the complainant and the Member complained about of the decision under clause 7 and the reasons for the decision; and
- (b) unless the Chairperson decides that the complaint should be dismissed, appoint a Disciplinary Committee under clause 32 and refer the complaint to that Committee.

9 Disciplinary Committee must determine complaint or inquiry

- (1) A Disciplinary Committee must, as soon as practicable after receiving a complaint or inquiry, hear the matter and decide whether or not there are grounds for disciplining the Member complained about under the Rules of the Institution.
- (2) If the Disciplinary Committee decides under sub clause (1) that there are no grounds for disciplining the Member complained about under The Rules of the Institution, the Institution must dismiss the complaint.
- (3) If the Disciplinary Committee decides under sub clause (1) that there are grounds for disciplining the Member complained about under The Rules of the Institution, the Disciplinary Committee must decide whether and how to exercise the Institution's powers under the Rules of the Institution, including imposing one or more of the following penalties:
 - (a) that the Member be expelled from membership of the Institution;
 - (b) that such Member is suspended from Membership for any period;
 - (c) that such Member is suspended from the Membership until such time as the Member has fulfilled requirements for professional development as have been specified by the Committee;
 - (d) that if by a prescribed date the Members fails to fulfil requirements for professional development as have been specified by the

- Committee such Member be suspended from Membership for a specified period of time;
- (e) that the Member be reprimanded or admonished;
 - (f) That the nature of the breach, the name of the member and the order made against the member be publicised.

10 Powers of Disciplinary Committees

Subject to clause 28, a Disciplinary Committee may—

- (a) make, or appoint a person to make, any preliminary inquiries it considers necessary;
- (b) engage counsel, who may be present at a hearing of the Committee, to advise the Committee on matters of law, procedure, and evidence;
- (c) request the Member complained about or the complainant to provide to the Committee, within a specified period of at least 14 days that the Committee thinks fit, any documents, things, or information that are in the possession or control of the person and that are relevant to the complaint or inquiry; and
- (d) request the Complaints Research Officer to provide his or her report into the complaint and copies of the evidence considered; and
- (e) take copies of any documents provided to it; and
- (f) request the Member complained about or the complainant to attend before the Committee, at that person's own cost, on at least 14 days' notice; and
- (g) receive any evidence that it thinks fit;
- (h) request a person giving evidence to verify a statement by statutory declaration; and
- (i) provide information to assist the complainant and the Member complained about obtaining counsel or other advocacy assistance.

11 Way in which Disciplinary Committee must consider disciplinary matter

- (1) Before making the decision under clause 9 on a complaint or inquiry, the Disciplinary Committee must—
 - (a) send details of the complaint or inquiry to the Member complained about; and
 - (b) invite him or her to respond in writing to the complaint or inquiry within a specified period (which must be at least 14 days); and
 - (c) give the complainant, the Member complained about, and any person alleged to be aggrieved (if not the complainant) at least 28 days' notification of—
 - (i) the time and place of the hearing; and
 - (ii) the right of those persons to be heard and represented, and to present evidence at the hearing; and
 - (d) advise each of the persons in paragraph (c) that the person must notify the Committee within a specified period (which must be at least 14 days) if the person wishes to be heard or present evidence (including the calling of witnesses) by the Committee on the complaint or inquiry.
- (2) The complainant, Member complained about, and any person alleged to be aggrieved have the right to be heard and represented, and to present evidence at the hearing.

12 Way in which Disciplinary Committee's decision must be made

The Disciplinary Committee's decision under clause 9 on a complaint or inquiry must be made in the following way:

- (a) the Committee must make its decision as soon as practicable, but may delay making the decision until the outcome is known of any other legal proceedings that may affect its findings; and

- (b) if the Committee is not unanimous, the decision of the majority of the Committee is the decision of the Committee (but dissenting members may issue dissenting views); and
- (c) As appropriate in considering a complaint in regard to an alleged breach of the ethical obligation, the Disciplinary Committee may evaluate the diligence in applying the Code of Ethics by the Member; the degree to which account was taken of each clause of the Code and the extent of explicit disregard of the Code; and
- (d) As appropriate in considering a complaint in regard to an alleged breach of the competence obligation the Disciplinary Committee may evaluate the actions of the Member having regard to the competence expected of Members holding the same membership class of the Institution as the Member complained of; and
- (e) As appropriate in considering a complaint in regard to an alleged breach of the Membership obligation, the Disciplinary Committee may evaluate the actions of the Member having regard to the extent that the Member attempted to comply with the Rules and the extent of explicit disregard of them; and
- (f) As appropriate in considering an alleged breach of the good character obligation, the Disciplinary Committee may evaluate the actions of the Member having regard to whether the person is a fit and proper person to be a Member of the Institution.

13 Institution must notify and implement decision

The Institution must—

- (a) notify the complainant and the Member complained about of the Committee's decision under clause 9, the reasons for that decision, any dissenting views, and their rights of appeal under the Rules of the Institution and these regulations; and
- (b) implement any of those decisions that require actions by it, but must allow at least 28 days after notifying the complainant of the decisions before an order made under the Rules of the Institution takes effect.

14 Lodging of appeals

Either the complainant or the Member complained of may lodge a request for an appeal against the decision or any penalty imposed by a Disciplinary Committee to be heard, provided that-

- (a) The request for hearing of the appeal is lodged in writing with the Executive Officer within 28 days of notification of the decision of the Disciplinary Committee; and
- (b) The grounds for the appeal are provided with the request.

15 Appeal Committee may deny request to hear an appeal

An Appeal Committee must, as soon as practicable after receiving a request to hear an appeal against a decision of a Disciplinary Committee decide:

- (a) whether there are grounds for hearing of an appeal; or
- (b) whether the request for an appeal to be heard should be dismissed.

16 Grounds for granting a request to hear an appeal

An Appeal Committee must grant a request to hear an appeal against a Disciplinary Committee decision if it considers that one or more of the following grounds exist:

- (a) new evidence of a decisive nature that could not reasonably have been available at the time of the Disciplinary Committee hearing is now available;
- (b) in determining the matter the Disciplinary Committee did not follow the procedures set out in these Regulations;

- (c) the penalty imposed by the Disciplinary Committee is unfair in the light of the gravity of the breach concerned; or
- (d) the decision reached by the Disciplinary Committee is manifestly at odds with the evidence presented at the hearing.

17 Notification of decision to allow appeal to be heard

The Institution must notify the complainant and the Member complained about of the Committee's decision under clause 15.

18 Determination of Appeal

An Appeal Committee must, as soon as practicable after making the decision to hear an appeal under clause 15(a), hear the matter and decide whether to confirm, vary, or reverse the decision or any order of the Disciplinary Committee and may, in addition, make any decision or order that the Disciplinary Committee is empowered to make, as well as such order for the payment of the costs of the appeal as it thinks fit.

19 Powers of Appeal Committee

Subject to clause 28 an Appeal Committee may—

- (a) engage counsel, who may be present at a hearing of the Committee, to advise the Committee on matters of law, procedure, and evidence:
- (b) request the Member complained about or the complainant to provide to the Committee, within a specified period of at least 14 days that the Committee thinks fit, any documents, things, or information that are in the possession or control of the person and that are relevant to the investigation; and
- (c) take copies of any documents provided to it; and
- (d) request the Member complained about or the complainant to attend before the Committee, at that person's own cost, on at least 14 days' notice:
- (e) receive any evidence that it thinks fit:
- (f) request a person giving evidence to verify a statement by statutory declaration: or
- (g) provide information to assist the complainant and the Member complained about obtaining counsel or other advocacy assistance.

20 Way in which Appeal Committee must consider appeal

- (1) Before making the decision under clause 18 on a complaint or inquiry, the Appeal Committee must—
 - (a) give the complainant, the Member complained about, and any person alleged to be aggrieved (if not the complainant) at least 28 days' notification of—
 - (i) the time and place of the hearing; and
 - (ii) the right of those persons to be heard and represented at the hearing; and
 - (b) advise each of the persons in paragraph (a) that the person must notify the Committee within a specified period (which must be at least 14 days) if the person wishes to be heard by the Committee on the complaint or inquiry.
- (2) The complainant, Member complained about, and any person alleged to be aggrieved have the right to be heard and represented at the hearing and to make written submissions.
- (3) Unless the Appeal Committee otherwise directs, it is not permissible to recall witnesses who gave evidence before the Disciplinary Committee or to call other witnesses and the material before the Appeal Committee must be the record of the proceedings of the Disciplinary Committee and its

report and any documents which supported it together with any additional submissions made in respect of the appeal.

21 Way in which Appeal Committee's decision must be made

The Appeal Committee's decision under clause 18 on an appeal must be made in the following way:

- (a) the Committee must make its decision as soon as practicable, but may delay making the decision until the outcome is known of any other legal proceedings that may affect its findings; and
- (b) if the Committee is not unanimous, the decision of the majority of the Committee is the decision of the Committee (but dissenting members may issue dissenting views).

22 Institution must notify and implement decision

The Institution must notify the complainant and the Member complained about of the Appeal Committee's decision under clause 18 which is final and binding. The Institution must take the steps necessary to implement any orders made.

23 Notification of Orders to the Council

In all cases where any order or orders are made under these regulations the Executive Officer must report to the Council, with particulars of such order or orders.

24 Enforcement of Orders

- (1) If a Member against whom an order has been made fails to comply with that order within a period of 30 days from the date at which proceedings under these Regulations are complete, or such other time as may be specified by the Executive Officer as reasonable in the circumstances for the particular order, the Executive Officer may suspend the Member until the order is complied with.
- (2) If the Member against whom the order is made fails to comply within a further period of 30 days from the date at which the period specified in clause (1) has expired, the Executive Officer may expel the Member from the Institution,
- (3) The Executive Officer may publish the fact of any action taken under clause 24 and the name of the Member concerned in the official journal of the Institution.

25 Persons carrying out delegated functions and powers under these Regulations

- (1) The Council may delegate to the following persons the functions and powers given to those persons by these regulations:
 - (a) Complaints Research Officers appointed under clause 29:
 - (b) the Chairperson and the alternate Chairpersons of Disciplinary Committees appointed under clause 31:
 - (c) Disciplinary Committees appointed under clause 32:
 - (d) Appeal Committees appointed under clause 33: and
 - (e) Executive Officer, in respect of organisational and notification actions required to implement these regulations in an effective manner.
- (2) The Council may delegate the authority to appoint persons to roles under subsection (1) to either a single member of the Council appointed for this purpose, or to a National Chapter Committee or, in the case of Complaint Research Officers, to the Executive Officer.

26 Regulations do not limit the Council's power to carry out delegated functions and powers

The fact that the Rules give a function or power to a person does not, in itself, prevent the Council from performing the function or exercising the power.

27 General provisions about appointments, revocations of appointments, and resignations

- (1) The Council may appoint a person to a role under these Regulations by written notice to him or her.
- (2) The Council may, at any time,—
 - (a) revoke a person's appointment to a role under these Regulations by written notice to him or her;
 - (b) require a person appointed to a role under these Regulations not to participate in a matter if the Council 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;
 - (c) reconstitute any body of persons appointed under these Regulations by written notice to that body.
- (3) Any person appointed under these Regulations may resign the appointment to that role by written notice to the Executive Officer.

28 General provisions about procedures

- (1) Every person or body appointed under these Regulations must—
 - (a) give reasons for its decisions under these regulations; and
 - (b) observe the rules of natural justice.
- (2) Except as otherwise provided in the Rules of the Institution or these regulations, a person or body of persons appointed under these Regulations may regulate the person's or body's own procedure as it thinks fit.

29 Complaints Research Officers

- (1) The Institution may appoint, for a particular case or class of cases, a Complaints Research Officer.
- (2) The Institution must appoint Complaints Research Officers who—
 - (a) are Professional Members or Fellows; or
 - (b) have other qualifications or experience that the Institution considers relevant to the subject-matter of the case.
- (3) In appointing a Complaints Research Officer for a case or class of cases, the Institution must endeavour to ensure that he or she does not have a material conflict of interest on the case or class of cases.

30 Institution must keep list of persons who may be members of Committees

- (1) The Institution must keep a list of persons who may be members of Disciplinary Committees.
- (2) The Institution must select persons for the list having regard to—
 - (a) the extent of their experience in, and knowledge of professional engineering; and
 - (b) their experience in competency assessments; and
 - (c) their experience in investigating and hearing complaints in professional engineering or other professions.

31 Chairpersons and alternate chairpersons of Disciplinary Committees

- (1) The Institution must appoint persons from the list kept under clause 30 to be the Chairperson of Disciplinary Committees, and the alternate Chairperson of Disciplinary Committees.
- (2) The Institution may appoint more than one alternate Chairperson of Disciplinary Committees.
- (3) An appointment—

- (a) is for the term specified by the Institution on making the appointment up to a maximum term of 2 years; and
 - (b) may be renewed, but no person may be appointed for more than 3 2-year terms.
- (4) An alternate Chairperson has all the functions, duties, and powers of the Chairperson under these rules if—
- (a) there is no Chairperson or, for any reason, the Chairperson is unable to perform and exercise his or her functions, duties, and powers as Chairperson; or
 - (b) in relation to a particular matter, the Institution refers the matter to the alternate Chairperson instead of the Chairperson.

32 Disciplinary Committee

- (1) The Institution 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 clause 40; and
 - (c) 1 person who—
 - (i) is not an engineer; and
 - (ii) is nominated by a body that the Institution considers to be representative of consumer interests.
- (2) The Institution 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.
- (3) Any 2 persons appointed under subclause (2) must consist of—
- (a) 1 person from the list kept under clause 30; and
 - (b) 1 person who—
 - (i) is not an engineer; and
 - (ii) is nominated by the Institution.
- (4) In appointing a member to a Disciplinary Committee for a case or class of cases, the Institution must endeavour to ensure that the member does not have a material conflict of interest on the case or class of cases.

33 Appeal Committee

- (1) The Institution may appoint for a particular case or class of cases, an Appeal Committee consisting of—
- (a) 2 Institution representatives, selected for their expertise in the matters to be heard, and
 - (b) a person holding the equivalent qualification to a barrister of the High Court of New Zealand.
- (2) In appointing a member to an Appeal Committee for a case or class of cases, the Institution must endeavour to ensure that the member does not have a material conflict of interest on the case or class of cases.

34 Indemnity

Persons undertaking duties on behalf of the Institution, pursuant to these Regulations are indemnified in the discharge of their duties under these Regulations, provided that each person so indemnified has immediately disclosed any actual or perceived conflict of interest to the Institution.

APPENDIX 4

EXEMPLAR COMPETENCE REGISTER REGULATIONS

Regulations for the **XXX** National Sections of the South Pacific Competence Registers

These Regulations are made by the Council of the **Institution of Engineers of XXX** (the Institution), on **(date)**, in accordance with the Rules of the Institution.

Part 1. Establishment of Competence Registers

1. Commencement

The regulations below come into force on **(date)**.

2. Interpretation

In these regulations, unless the context otherwise requires,—

applicant's registration date has the meaning set out in clause 19

assessment means an assessment of whether or not the person met—

(a) the minimum standard for registration; or

(b) the minimum standard for continued registration

assessment panel means an assessment panel appointed under Part 5

assessor means an assessor appointed under Part 5

chief executive means the chief executive of the Institution or person delegated this role by the Council

code of ethical conduct means the minimum standards contained in Part 3

Competency Assessment Board means the Competency Assessment Board appointed under Part 5

complaints research officer means a complaints research officer appointed under Part 5

disciplinary committee means a disciplinary committee appointed under Part 5

engineer means Professional Engineer, Engineering Technology Practitioner or Engineering Technician as appropriate to the circumstances

engineering means engineering activities undertaken by a Professional Engineer, Engineering Technology Practitioner or Engineering Technician as appropriate to the circumstances

engineering activities has the meaning set out in clause 7 and Schedule 2

engineering problems has the meaning set out in clause 7 and Schedule 2

equivalent competence means a qualification or title that the Institution determines requires the holder to have competence at least equivalent to the competence required to be a registrant on a particular register

material conflict of interest means, in relation to any matter, a financial or other interest that is likely to affect a person's judgement on that matter

meeting method means meeting—

(a) by assembling together at a place; or

(b) by means of audio, audio and visual, or electronic communication by which the participants can simultaneously communicate with each other throughout the meeting

minimum standard for continued registration means the minimum standard set out in clause 21

minimum standard for registration means the minimum standard set out in clause 6

notify means send a written notice (by post, email, fax, or other similar means of communication) to the last known address of the person concerned

postnominal means the abbreviation that may be used after his or her name by registered persons as set out in Schedule 2, provided that the person's registration is not in abeyance or suspension

practice area means an engineer's area of practice, as determined by—

(a) the area within which he or she has engineering knowledge and skills; and

(b) the nature of his or her engineering activities.

registered person means a person who is registered on one or more particular registers

registers means competence registers created under these Regulations

registers under review means those registers for which an assessment of a person for continued registration is to be carried out by an assessment panel

registration decision means a decision made by the Competency Assessment Board in regard to either an application for registration, or in regard to the continued registration of a candidate.

relevant registers means those registers applied for by an applicant and in addition any other registers for which an assessment panel chooses to assess the applicant

specifications means the specifications of a particular register as set out in Schedule 2

title means the title that a registered person on a particular register may use, as set out in Schedule 2

3. Creation, Name and Specification of the Competence Registers

The competence registers (hereinafter called the **registers**), named in Schedule 1 and with the **specifications** set out in Schedule 2 are created and are subject to the Rules of the Institution, and in addition, these regulations.

4. Management of the Registers

The Council of the Institution shall be responsible for the management of the registers.

5. Rights of and Obligations on Registered Persons

(1) Each person who is registered on a particular register and whose registration on that register is not suspended or in abeyance may represent themselves as being registered on the particular register, and may do so by using the **title** for that register stated in Schedule 2 and/or the **postnominal** for that register stated in Schedule 2.

(2) Although registration does not require Membership of the Institution, each person seeking registration on any register must signify in writing their agreement to abide by these Regulations and the Rules of the Institution (insofar as they apply to the register), and any subsequent amendment to either the Regulations or the Rules.

(3) Payment of the annual registration fee for any register is deemed to signify continued acceptance by the person of these Regulations and the Rules of the Institution (insofar as they apply to the register), as may have been amended from time to time.

Part 2. Registration of registered persons

Subpart 1—Assessment for initial registration

Minimum standard for registration

6 Minimum standard for registration on a register

(1) The **minimum standard** for registration on each register is set out in Schedule 2.

(2) For each register, the extent to which the person is able to satisfy each of the **competence elements** set out in Schedule 2 in his or her **practice area** must be taken into account in assessing whether or not he or she meets the overall standard in subclause (1).

7 Definitions for purpose of minimum standard for registration

For the purposes of interpreting Clause 6, definitions of types of **engineering activities** and **engineering problems** to assist in interpreting the competence elements for each register are set out in Schedule 2.

Applications for registration

8 How to apply for registration

- (1) A person may apply to the Institution for registration on one or more registers in accordance with this clause.
- (2) The application must—
 - (a) be made in a form containing the information set out in Schedule 3; and
 - (b) contain or be accompanied by all of the supporting information set out in clause 9; and
 - (c) contain or be accompanied by—
 - (i) a statement signed by the applicant to the effect that all the information is accurate and any evidence provided is genuine; and
 - (ii) a statement of the applicant's agreement to be bound by these Regulations and the Rules of the Institution (insofar as they apply to the registers) as amended from time to time; and
 - (d) be accompanied by the registration application charge set out in Schedule 2.
- (3) The applicant must provide all information in writing and must provide 3 copies of that information.

9 Information that must be provided to support application

An applicant must provide the following information in or with an application:

- (a) evidence of the following (if applicable):
 - (i) academic and other relevant qualifications; and
 - (ii) current registration on other engineering registers; and
 - (iii) results from other relevant competency assessments; and
 - (iv) professional development activities undertaken; and
- (b) a chronological summary of the applicant's work history (including a description of previous employment positions and engineering activities); and
- (c) a statement of self-review reflecting on the applicant's competence and development as an engineer; and
- (d) any other information that the applicant wishes to be considered (which may include work samples from recent engineering activities); and
- (e) annotations explaining how the information demonstrates that the applicant meets the minimum standard for registration.

10 Information missing from application

- (1) The Institution may request an applicant to provide additional information if the application received by the Institution does not contain, or is not accompanied by, all of the obligatory statements and information set out in clauses 8 and 9.
- (2) An application lapses if additional information is requested under subclause (1) or clause 12(1) and that information is not received by, as appropriate, the Institution or the assessment panel before the expiry of 6 months after the date of the request.
- (3) If an application lapses, the Institution 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.

Way in which application for registration must be evaluated and decisions made and implemented

11 Assessment panel must evaluate application

- (1) An assessment panel must decide the **relevant registers** for the application which must include all the registers applied for by the applicant, but may include other registers at the discretion of the panel
- (2) The assessment panel must evaluate each application for registration on each relevant register to assess—
 - (a) whether or not the applicant has demonstrated that he or she meets the minimum standard for registration on the register; and
 - (b) if so, whether the applicant's continued registration should be assessed by the end of the fifth year from 31 December of the year of this assessment, or in an earlier year.

12 Way in which assessment panel must evaluate application

- (1) The assessment panel must evaluate the application in the following way:
 - (a) carry out a preliminary evaluation of the information provided and assess whether or not the panel needs more information to complete the assessment; and
 - (b) do all of the following, unless the panel thinks it unnecessary (in which case, it may carry out one or more, or none, of the following):
 - (i) carry out an interactive assessment with the applicant by any meeting method; and
 - (ii) require the applicant to carry out a written assignment; and
 - (iii) carry out an assessment of the applicant's engineering knowledge by any method the panel considers appropriate; and
 - (c) if the panel thinks it necessary, invite the applicant to provide, within a specified period,—
 - (i) any additional supporting information;
 - (ii) up to 2 further independent referees; and
 - (d) in evaluating the information provided, assess—
 - (i) the extent to which the applicant is able to satisfy the competence elements for the relevant registers; and
 - (ii) whether or not the applicant meets the overall minimum standard for registration on the relevant registers, taking its evaluation under subparagraph (i) into account; and
 - (iii) any other matters the panel considers necessary to carry out the assessment; and
 - (e) have regard to any advice provided by a member of the Competency Assessment Board for the purposes of moderating between assessments; and
 - (f) have regard to any other information held by the Institution in relation to the applicant.
- (2) The assessment panel may take these steps in a different order, repeat or combine any steps, or take additional steps to carry out the assessment.
- (3) After completing the actions required by subclause (1), the assessment panel must make a separate recommendation to the Competency Assessment Board on the application in respect of each relevant register.

13 Competency Assessment Board must make decision on application

- (1) In respect of each relevant register, the Competency Assessment Board must, after considering the assessment panel's recommendations in respect of that register, and ensuring that the applicant has agreed to abide by these Regulations and the relevant Rules of the Institution,—
 - (a) decide to register the applicant or to decline the application; and
 - (b) if it decides to register the applicant, determine whether the applicant's continued registration must be assessed by the end of the fifth year from 31 December of the year of this assessment, or in an earlier year.
- (2) However, the Competency Assessment Board may only decide—

- (a) to decline an application after complying with clause 14; and
- (b) to reject or vary a recommendation of the assessment panel after complying with clause 15.

14 Competency Assessment Board must give applicant opportunity to respond

If the Competency Assessment Board proposes to decline an application in respect of a particular register, the Board must—

- (a) notify the applicant of the reasons for the proposed decision; and
- (b) give the applicant a reasonable opportunity to make written submissions on the matter.

15 Competency Assessment Board must meet additional requirements if rejecting or varying recommendation

The Competency Assessment Board may only reject or vary a recommendation of the assessment panel in respect of a particular register if first—

- (a) the Board requires the assessment panel to reconsider its recommendation for the reasons given by the Board; and
- (b) the assessment panel reconsiders its recommendation, carries out any further steps it considers necessary under clause 12, and reports back on whether or not its recommendation should be amended; and
- (c) the Board considers the reconsidered recommendation.

16 Institution must notify and implement decision

- (1) In respect of each register applied for by the applicant, the Institution must—
 - (a) notify the applicant of the decisions under clause 14 and the reasons for those decisions; and
 - (b) if the decision is to register the applicant,—
 - (i) register him or her; and
 - (ii) issue a registration certificate to him or her.
 - (c) rebate to the applicant any part of the registration application charge for which a rebate applies under Schedule 2 (if not already rebated).
- (2) In respect of other relevant registers, the Institution must—
 - (a) notify the applicant of the decisions under clause 13 and the reasons for those decisions; and
 - (b) if the decision is to register the applicant, and within 28 days of sending the notification under subclause (a) the person agrees to be registered,—
 - (i) register him or her; and
 - (ii) issue a registration certificate to him or her.

Subpart 2—Registration certificates

17 How to apply for registration certificates

A person may apply to the Institution for a registration certificate for a particular register by paying the applicable registration certificate charge set out in Schedule 2.

18 Issue of registration certificates

The Institution must issue a registration certificate to a person who applies in accordance with clause 17 if he or she is currently registered on the register concerned.

19 Term for which registration certificates issued

- (1) Registration certificates are issued for a year, or part of a year, that—
 - (a) begins on 1 January or, if the applicant is not currently registered on 1 January, the applicant’s registration date under subclause (2); and
 - (b) ends on 31 December.
- (2) The **applicant’s registration date** in respect of any register is the date on which the applicant is registered under these Regulations or on which the applicant’s

registration revives after a period of suspension or abeyance (whichever is applicable).

20 Institution may require cancelled or suspended registration certificates to be returned or destroyed

- (1) A person must, if required by the Institution, return, or notify the Institution that the person has destroyed, a cancelled registration certificate.
- (2) A person must, if required by the Institution, return a registration certificate for the period of any suspension of his or her registration.

Subpart 3—Assessment for continued registration

Minimum standard for continued registration

21 Minimum standard for continued registration

To meet the **minimum standard for continued registration** on a particular register, a person must demonstrate that—

- (a) he or she—
 - (i) is still able to practise competently in his or her current practice area to a standard exceeding the minimum standard for registration on that register; or
 - (ii) if the person’s practice area has changed materially since the last assessment, meets the minimum standard for registration on that register within his or her current practice area; and
- (b) he or she has taken reasonable steps to maintain the currency of his or her engineering knowledge and skills within his or her current practice area since the last assessment.

Minimum frequency of assessments of continued registration

22 Minimum frequency of assessment of continued registration

- (1) In respect of each particular register the Institution must assess whether or not a person meets the minimum standard for continued registration within 5 years from 31 December of the year of the person’s last assessment.
- (2) Notwithstanding subclause (1), the Institution may carry out an assessment at any earlier time in respect to one or more registers (including, without limitation, in a year fixed on the person’s last assessment) if it so chooses.

Commencement of assessment

23 Institution must notify candidate of assessment

- (1) Before undertaking an assessment of a person’s continued registration, the Institution must notify the person (the **candidate**)—
 - (a) that it intends to carry out the assessment;
 - (b) the registers in respect of which the assessment will be carried out (the **registers under review**), and
 - (c) that the candidate must provide the information required under clause 24 by a specified date; and
 - (d) of the consequences of not providing the information.
- (2) The specified date for providing information must be at least 3 months after the notice under subclause (1).

24 Information that must be provided to demonstrate current competence

- (1) Each candidate who receives a notice under clause 23 must provide to the Institution, by the specified date,—
 - (a) a form containing the information set out in Schedule 3; and
 - (b) the supporting information set out in subclause (2); and

- (c) a statement signed by the applicant to the effect that all the information is accurate and any evidence provided is genuine.
- (2) A candidate must provide the following supporting information:
 - (a) evidence of the following (if applicable):
 - (i) academic and other relevant qualifications obtained since his or her last assessment; and
 - (ii) current registration on other engineering registers; and
 - (iii) results from other relevant competence assessments since his or her last assessment; and
 - (iv) professional development activities undertaken since his or her last assessment; and
 - (b) a chronological summary of the candidate's work history since his or her last assessment (including a description of employment positions and engineering activities in that period); and
 - (c) a statement of self-review reflecting on the applicant's competence and development as an engineer; and
 - (d) any other information that the candidate wishes to be considered (which may include work samples from recent engineering activities); and
 - (e) annotations explaining how the information demonstrates that the candidate meets the minimum standard for continued registration in respect of each register under review.
- (3) The candidate must provide all information in writing and must provide 3 copies of that information.

Way in which continued registration must be evaluated and decisions made and implemented

25 Assessment panel must evaluate continued registration

- (1) An assessment panel must evaluate each candidate for continued registration on each register under review to assess—
 - (a) whether or not the candidate has demonstrated that he or she meets the minimum standard for continued registration; and
 - (b) if so, whether the candidate's continued registration should next be assessed by the end of the fifth year from 31 December of the year of this assessment, or in an earlier year; and
 - (c) if not, whether the candidate's registration should be suspended or removed.
- (2) However, if the candidate does not provide the information required under clause 24 by the specified date,—
 - (a) only 1 assessor must evaluate the candidate's continued registration; and
 - (b) this subpart applies as if the assessor were the assessment panel (with any necessary modifications).

26 Way in which assessment panel must evaluate continued registration

- (1) The assessment panel must evaluate the candidate's continued registration on each register under review in the following way:
 - (a) carry out a preliminary evaluation of the information provided and assess whether or not the panel needs more information to complete the assessment; and
 - (b) if the panel thinks it necessary, do both of the following or only an interactive assessment:
 - (i) require the candidate to pay the interactive assessment charge set out in Schedule 2 and carry out an interactive assessment with the candidate by any meeting method;
 - (ii) require the candidate to carry out a written assignment; and
 - (c) if the panel thinks it necessary, invite the candidate to provide, within a specified period,—

- (i) any additional supporting information;
 - (ii) up to 2 further independent referees; and
 - (d) evaluate the information provided and any other information that the Institution has on the candidate; and
 - (e) have regard to any advice provided by a member of the Competency Assessment Board for the purposes of moderating between assessments; and
 - (f) have regard to any other information held by the Institution in relation to the candidate.
- (2) The assessment panel may take these steps in a different order, repeat or combine any steps, or take additional steps to carry out the assessment.
- (3) After completing the actions required by subclause (1), the assessment panel must make a recommendation to the Competency Assessment Board on the candidate's continued registration.

27 Competency Assessment Board must make decision on continued registration

- (1) In respect of each register under review the Competency Assessment Board must, after considering the assessment panel's recommendations—
- (a) decide to confirm the candidate's continued registration, or to remove or suspend the candidate's registration; and
 - (b) if it decides to confirm the candidate's continued registration, determine whether the candidate's continued registration must next be assessed by the end of the fifth year from 31 December of the year of this assessment, or in an earlier year.
- (2) However, the Competency Assessment Board may only decide—
- (a) to remove or suspend a candidate's registration in respect of a particular register after complying with clause 28; or
 - (b) to reject or vary a recommendation of the assessment panel in respect of a particular register after complying with clause 29.

28 Competency Assessment Board must give candidate opportunity to respond

- If the Competency Assessment Board proposes to remove or suspend the candidate's registration in respect of a particular register, the Board must—
- (a) notify the candidate of the information on which the proposed decision is based; and
 - (b) give the candidate a reasonable opportunity to make written submissions on the matter.

29 Competency Assessment Board must meet additional requirements if rejecting or varying recommendation

- The Competency Assessment Board may only reject or vary a recommendation of the assessment panel in respect of a particular register if first—
- (a) the Board requires the assessment panel to reconsider its recommendation for the reasons given by the Board; and
 - (b) the assessment panel reconsiders its recommendation, carries out any further steps it considers necessary under clause 26, and reports back on whether or not its recommendation should be amended; and
 - (c) the Board considers the reconsidered recommendation.

30 Institution must notify and implement decision

- (1) In respect of each register under review the Institution must—
- (a) notify the candidate of the decisions under clause 27 and the reasons for those decisions; and
 - (b) if the decision is to remove or suspend the candidate's registration, remove or suspend that registration; and

- (c) if the candidate paid an interactive assessment charge, rebate to the candidate any part of the charge for which a rebate applies under Schedule 2 (if not already rebated).
- (2) However, the Institution must not remove or suspend a candidate's registration on a particular register until the expiry of a period of at least 28 days after the notification of the decision.

31 Complaints arising from assessment of continued registration

If an assessment panel or Competency Assessment Board considers, in the course of carrying out an assessment of continued registration, that there is reason to suspect that the candidate may come within any of the grounds for discipline set out in clause 55, the panel or Board must refer the matter to the Institution for consideration under clause 58.

Subpart 4—Appeals on registration decisions

32 Request for review

- (1) A person may, in accordance with this clause, apply to the Institution for a review of a **registration decision** on only one of the two following grounds:
 - (a) that the assessment was not carried out in accordance with the procedures set out in these Regulations, and/or
 - (b) that the decision reached by the Competency Assessment Board is manifestly at odds with the evidence presented in the application.
- (2) The application must be—
 - (a) made in writing within 14 days after the applicant is notified of the assessment decision; and
 - (b) accompanied by—
 - (i) a statement of how the applicant considers that the assessment was not carried out in accordance with the procedures set out in these regulations and/or the decision reached by the Competency Assessment Board is manifestly at odds with the evidence presented with the application; and
 - (ii) any evidence that the applicant wishes to be considered in the review; and
 - (c) accompanied by the charge for reviews set out in Schedule 2.
- (3) A person may apply only once under this clause for review of a particular registration decision, and the decision made under these Regulations in respect of the application shall be final and binding on both the Institution and the person concerned.

33 Competency assessment reviewer must carry out review

A competency assessment reviewer must, as soon as practicable after receiving an application under clause 32, review the procedures followed in carrying out the assessment and/or the decision making process of the Competency Assessment Board, and—

- (a) cancel the registration decision of the Competency Assessment Board and refer the matter back to be reassessed from the stage he or she considers necessary if he or she considers that—
 - (i) the assessment was not carried out in accordance with the procedures set out in these Regulations; and
 - (ii) this has disadvantaged the applicant; or
- (b) cancel the registration decision of the Competency Assessment Board and refer the matter back to the Competency Assessment Board with reasons for cancellation of its decision; or
- (c) dismiss the application.

34 Institution must notify and implement decision

The Institution must—

- (a) notify the applicant of the decision under clause 33 and the reasons for that decision; and
- (b) if a registration decision is to be cancelled, implement the decision of the competency assessment reviewer and refund the charge for the review to the applicant.

Subpart 5—Suspensions, removals, or abeyances of registration for non-disciplinary reasons

Suspensions, removals, and abeyances for non-disciplinary reasons

35 Grounds for suspension, removal or abeyance for non-disciplinary reasons

- (1) The Institution may place the registration of a person in respect of a particular register in abeyance if the annual registration charge for the register concerned remains unpaid 90 days after falling due on 1 January of the year in question.
- (2) The Institution may suspend the registration of a person on a particular register when the person has been assessed for continued registration on that register, and has failed to satisfy the Institution that he or she meets the minimum standards, but may not do so until 28 days after notifying the person.
- (3) The Institution may remove the registration of a person on a particular register in the following circumstances:
 - (a) the registration has been placed in abeyance for non-payment of annual registration charges, and the charges remain unpaid 12 months after the due date, or
 - (b) the registration has been suspended for failure to demonstrate that the person meets the minimum standard for continued registration, and the person has been unable to demonstrate that he or she meets the minimum standard within 12 months of the date on which the suspension was notified, or
 - (c) the person dies, or
 - (d) the person requires it by written notice to the Institution.

36 Institution must give person opportunity to respond

If the Institution proposes, in respect of a particular register, to suspend or remove a person's registration or to place a person's registration in abeyance the Institution must—

- (a) notify the person of the reasons for the proposed decision; and
- (b) give that person a reasonable opportunity to make written submissions on the matter.

37 Institution must notify decision

- (1) If the Institution suspends or removes a person's registration on a particular register the Institution must—
 - (a) notify a person of its decision and the reasons for that decision; and
 - (b) remove or suspend that registration.
- (2) However, the Institution must not remove or suspend a person's registration until the expiry of a period of at least 28 days after the notification of the decision.

Voluntary abeyances

38 How to voluntarily place registration into abeyance

A person may require that his or her registration on a particular register be placed in abeyance by written notice to the Institution that—

- (a) states the required period of abeyance; and
- (b) is given no less than 7 days before the commencement of that period; and

(c) is accompanied by the charge for the abeyance period set out in Schedule 2.

39 Minimum and maximum periods of voluntary abeyances

A person may require that his or her registration on a particular register be placed in abeyance only if the period of abeyance—

- (a) consists of 1 or more periods of 12 months; and
- (b) will expire before the end of the year in which the person's next assessment of continued registration on that register must be carried out.

Subpart 6—Register

40 Matters to be shown in register

The register for each particular register must contain, for each registered person:

- (a) the name of the person; and
- (b) if the person consents, address details (including the electronic address if applicable) of the person; and
- (c) the following matters on the status and history of the person's registration
 - (i) the date on which the person was registered; and
 - (ii) the year by the end of which the person's next assessment must be carried out; and
 - (iii) any order made on a disciplinary matter in the last three years; and
 - (iv) any current suspension or placing of registration in abeyance, the reasons for that suspension or abeyance, and any conditions for its termination.

41 Form of register

The register for each particular register is an electronic register.

42 Amendment of register

The Institution must amend each register to—

- (a) reflect any changes, or correct any errors, in the information shown in the register as soon as reasonably practicable after being notified, or otherwise becoming aware, of the change or error; and
- (b) on the written request of any person, remove the contact details of that person.

Subpart 7—Miscellaneous

43 Retention of assessment information

- (1) The Institution must keep at least 1 copy of the information provided for each assessment until—
 - (a) the time limit for an appeal under these regulations has expired without an appeal being made; or
 - (b) all appeals on the assessment decision are completed.
- (2) The Institution may continue to hold 1 copy of the information after the dates in subclause (1) provided that it holds that information in compliance with the Privacy Act.

Part 3 Code of ethical conduct

General obligations to society

44 Take reasonable steps to safeguard health and safety

A registered person must, in the course of his or her engineering activities, take reasonable steps to safeguard the health and safety of people.

45 Have regard to effects on environment

- (1) A registered person must, in the course of his or her engineering activities,—
 - (a) have regard to reasonably foreseeable effects on the environment from those activities; and
 - (b) have regard to the need for sustainable management of the environment.
- (2) In this clause, **sustainable management** means management that meets the needs of the present without compromising the ability of future generations (including at least the future generations within the anticipated lifetime of the end products and by-products of activities) to meet their own reasonably foreseeable needs.

46 Act with honesty, objectivity, and integrity

A registered person must act honestly and with objectivity and integrity in the course of his or her engineering activities.

General professional obligations

47 Not misrepresent competence

A registered person must—

- (a) not misrepresent his or her competence; and
- (b) undertake engineering activities only within his or her competence; and
- (c) not knowingly permit engineers whose work he or she is responsible for to breach paragraph (a) or paragraph (b).

48 Not misrepresent registered person status

A registered person must not (in connection with a business, trade, employment, calling, or profession) make a false or misleading representation, or knowingly permit another to make a false or misleading representation, that services are supplied by a registered person.

49 Inform others of consequences of not following advice

- (1) A registered person who considers that there is a risk of significant consequences in not accepting his or her professional advice must take reasonable steps to inform persons who do not accept that advice of those significant consequences.
- (2) In this clause, **significant consequences** means consequences that involve—
 - (a) significant adverse effects on the health or safety of people; or
 - (b) significant damage to property; or
 - (c) significant damage to the environment.

50 Not promise, give, or accept inducements

A registered person must not—

- (a) promise or give to any person anything of substantial value intended to improperly influence that person's decisions that relate to the registered person's activities; or
- (b) accept from any person anything of substantial value intended to improperly influence his or her engineering decisions.

Obligations to employers and clients

51 Not disclose confidential information

- (1) A registered person must not disclose confidential information of an employer or client without the agreement of the employer or client.
- (2) Subclause (1) does not apply if—
 - (a) the failure to disclose information would place the health or safety of people at significant and immediate risk; or
 - (b) the engineer is required by law to disclose that information.

52 Not misuse confidential information for personal benefit

A registered person who obtains another person's confidential information in connection with one purpose in the course of his or her engineering activities must not use that information for another purpose that is to his or her own personal benefit.

53 Disclose conflicts of interest

A registered person must disclose to an employer or client any financial or other interest that is likely to affect his or her judgement on any engineering activities he or she is to carry out for that employer or client.

Obligations owed to other engineers

54 Not review other engineers' work without taking reasonable steps to inform them and investigate

- (1) A registered person who reviews another engineer's work for the purpose of commenting on that work must take reasonable steps to—
 - (a) inform that engineer of the proposed review before starting it; and
 - (b) investigate the matters concerned before commenting.
- (2) Subclause (1) does not apply if taking those steps would result in there being a significant and immediate risk of harm to the health or safety of people, damage to property, or damage to the environment.

Part 4 Disciplining of registered persons

Grounds for discipline and penalties

55 Grounds for discipline

The Institution may (in relation to a matter raised by a complaint or by its own enquiries) make an order if it is satisfied that a registered person:

- (a) has breached the code of ethical conduct set out in clauses 44 to 54; or
- (b) has failed to undertake engineering activities in a sufficiently careful and competent manner; or
- (c) has acted in a manner that in the view of the Institution makes the person unfit to practice engineering; or
- (d) has acted in breach of these Regulations in that he or she:
 - (i) either orally or in writing made a declaration or representation knowing it to be false; or
 - (ii) in the view of the Institution deliberately misled the Institution in regard to any matter over which these Regulations have jurisdiction.

56 Disciplinary penalties

- (1) In any case where clause 55 applies, the Institution may order that
 - (a) the person's registration be removed (in respect of one or more particular registers) and that the person may not reapply for registration on any register so concerned before the expiry of a specified period;
 - (b) the person's registration (in respect of one or more particular registers) be suspended for a period of no more than 12 months or until the person meets specified conditions relating to the registration (but in any case, not for a period of more than 12 months);
 - (c) the person be censured, but remain registered (in respect of one or more particular registers);
 - (d) the person be required to pay a fine not exceeding \$5000.00
 - (e) the person be required to pay costs incidental to the enquiry by the Institution;

- (f) the person be publicly named and a description of the matters from which the disciplinary action arose be published in any way that the Institution thinks fit.
- (2) In applying subclause (1) the Institution may only apply one order of the types in subsections (1)(a) to (1)(c), but in addition may make as many orders as it chooses from sub-sections (1)(d), (1)(e) and (1)(f).
- (3) No order may under this section may be implemented until either the time limit for the person to appeal has expired or the person has unsuccessfully exhausted his or her rights to appeal under these Regulations.

Complaints and inquiries

57 How to complain about registered persons

- (1) A person may complain to the Institution about the conduct of a registered person or former registered person in accordance with this clause.
- (2) The complaint must be made in writing and contain the complainant's name and contact details.
- (3) The Institution must give all reasonable assistance that is necessary in the circumstances to enable a person who wishes to make a complaint to put the complaint in writing.

58 Institution may inquire into matters on own motion

- (1) The Institution may inquire into any matter on its own motion under this Part if it has reason to suspect that a registered person or former registered person may come within any of the grounds for discipline in clause 55.
- (2) If subclause (1) applies, the Institution may—
 - (a) carry out an investigation of the matter in accordance with clauses 61 and 62 (other than notifying the complainant under clause 61(a)) as if it were a complaint; or
 - (b) if a complaint on that matter has already been made, continue to inquire into the matter even if the complaint is subsequently withdrawn.

Initial investigation of complaint

59 Institution must refer complaint to disciplinary committee unless grounds for not doing so

The Institution must, as soon as practicable after receiving a complaint, carry out an initial investigation of the complaint in accordance with clause 61 and—

- (a) refer the complaint to a disciplinary committee; or
- (b) dismiss the complaint on a ground in clause 60.

60 Grounds for not referring complaint to disciplinary committee

The Institution may dismiss a complaint without referring it to an investigating committee if the chairperson of disciplinary committees decides under clause 61 that—

- (a) there is no applicable ground of discipline under clause 55; or
- (b) the subject matter of the complaint is trivial; or
- (c) the alleged misconduct is insufficiently grave to warrant further investigation; or
- (d) the complaint is frivolous or vexatious or is not made in good faith; or
- (e) the person alleged to be aggrieved does not wish action to be taken or continued; or
- (f) the complainant does not have a sufficient personal interest in the subject matter of the complaint; or
- (g) an investigation of the complaint is no longer practicable or desirable given the time elapsed since the matter giving rise to the complaint; or
- (h) the person complained about is no longer registered on any register to which these Regulations apply.

61 Way in which decision on whether or not to refer complaint to disciplinary committee must be made

The Institution must carry out an initial investigation of a complaint against the grounds in clause 60 in the following way:

- (a) the Institution must notify the registered person complained about of the general nature of the complaint before commencing the investigation; and
- (b) a complaints research officer must carry out the initial investigation of the complaint and recommend to the chairperson of disciplinary committees that the complaint proceed or be dismissed on a ground in clause 60; and
- (c) the complaints research officer, or chairperson of disciplinary committees, may seek to verify the information provided in the complaint by a statutory declaration from the complainant; and
- (d) after considering the complaints research officer's recommendation, the chairperson must decide whether the complaint should proceed or should be dismissed on a ground in clause 60.

62 Institution must notify and implement decision

The Institution must—

- (a) notify the complainant and the registered person complained about of the decision under clause 61 and the reasons for the decision; and
- (b) unless the chairperson of disciplinary committees decides that the complaint should be dismissed, appoint a disciplinary committee under clause 95 and refer the complaint to that committee.

Disciplinary committee

63 Disciplinary committee must determine complaint or inquiry

- (1) A disciplinary committee must, as soon as practicable after receiving a complaint or inquiry, hear the matter and decide whether or not there are grounds for disciplining the registered person complained about under clause 55.
- (2) If the disciplinary committee decides under sub clause (1) that there are no grounds for disciplining the registered person complained about under clause 55, the Institution must dismiss the complaint.
- (3) If the disciplinary committee decides under sub clause (1) that there are grounds for disciplining the registered person complained about under clause 55, the disciplinary committee must decide whether and how to exercise the Institution's powers under clause 56 and make any orders it considers necessary

70 Powers of disciplinary committees

A disciplinary committee may—

- (a) make, or appoint a person to make, any preliminary inquiries it considers necessary; and
- (b) engage counsel, who may be present at a hearing of the committee, to advise the committee on matters of law, procedure, and evidence; and
- (c) request the registered person complained about or the complainant to provide to the committee, within a specified period of at least 14 days that the Committee thinks fit, any documents, things, or information that are in the possession or control of the person and that are relevant to the complaint or inquiry; and
- (d) request the complaints research officer to provide his or her report into the complaint and copies of the evidence considered; and
- (e) take copies of any documents provided to it; and
- (f) request the registered person complained about or the complainant to attend before the committee, at that person's own cost, on at least 14 days' notice; and
- (g) receive any evidence that it thinks fit; and
- (h) request a person giving evidence to verify a statement by statutory declaration; and

- (i) provide information to assist the complainant and the registered person complained about obtaining counsel or other advocacy assistance.

65 Way in which disciplinary committee must consider disciplinary matter

- (1) Before making the decision under clause 63 on a complaint or inquiry, the disciplinary committee must—
 - (a) send details of the complaint or inquiry to the registered person complained about; and
 - (b) invite him or her to respond in writing to the complaint or inquiry within a specified period (which must be at least 14 days); and
 - (c) give the complainant, the registered person complained about, and any person alleged to be aggrieved (if not the complainant) at least 28 days' notification of—
 - (i) the time and place of the hearing; and
 - (ii) the right of those persons to be heard and represented, and to present evidence at the hearing; and
 - (d) advise each of the persons in paragraph (c) that the person must notify the committee within a specified period (which must be at least 14 days) if the person wishes to be heard or present evidence (including the calling of witnesses) by the committee on the complaint or inquiry.
- (2) The complainant, registered person complained about, and any person alleged to be aggrieved have the right to be heard and represented, and to present evidence at the hearing.

66 Way in which disciplinary committee's decision must be made

The disciplinary committee's decision under clause 63 on a complaint or inquiry must be made in the following way:

- (a) the committee must make its decision as soon as practicable, but may delay making the decision until the outcome is known of any other legal proceedings that may affect its findings; and
- (b) if the committee is not unanimous, the decision of the majority of the committee is the decision of the committee (but dissenting members may issue dissenting views).

67 Institution must notify and implement decision

The Institution must—

- (a) notify the complainant and the registered person complained about of the committee's decision under clause 63, the reasons for that decision, any dissenting views, and their rights of appeal under these Regulations; and
- (b) implement any of those decisions that require actions by it, but must allow at least 28 days after notifying the complainant of the decisions before an order made under clause 56 takes effect.

Appeals Committee

68 Lodging of appeals

Either the complainant or the registered person complained of may lodge a request for an appeal against the decision or any penalty imposed by a disciplinary committee to be heard, provided that—

- (a) the request for hearing of the appeal is lodged in writing with the Chief Executive within 28 days of notification of the decision of the disciplinary committee; and
- (b) the grounds for the appeal are provided with the request.

69 Appeal committee

Upon receipt of an appeal under clause 68 the Institution must appoint an appeals committee under clause 96 and refer the request for hearing of an appeal to that committee.

70 Appeal committee may deny request to hear an appeal

The appeal committee must, as soon as practicable after receiving a request to hear an appeal against a decision of a disciplinary committee, decide:

- (a) whether there are grounds for hearing of an appeal under clause 71; or
- (b) whether the request for an appeal to be heard should be dismissed.

71 Grounds for granting a request to hear an appeal

The appeal committee must grant a request to hear an appeal against a disciplinary committee decision if it considers that one or more of the following grounds exist:

- (a) new evidence of a decisive nature that could not reasonably have been available at the time of the disciplinary committee hearing is now available;
- (b) in determining the matter the disciplinary committee did not follow the procedures set out in these Regulations;
- (c) the penalty imposed by the disciplinary committee is unfair in the light of the gravity of the breach concerned; or
- (d) the decision reached by the disciplinary committee is manifestly at odds with the evidence presented at the hearing.

72 Notification of decision to allow appeal to be heard

The Institution must notify the complainant and the registered person complained about of the committee's decision under clause 70.

73 Determination of appeal

The appeal committee must, as soon as practicable after making the decision to hear an appeal under clause 70(a), hear the matter and decide whether to confirm, vary, or reverse the decision or any order of the disciplinary committee and may, in addition, make any decision or order that the disciplinary committee is empowered to make, as well as such order for the payment of the costs of the appeal as it thinks fit.

74 Powers of appeal committee

The appeal committee may—

- (a) engage counsel, who may be present at a hearing of the committee, to advise the committee on matters of law, procedure, and evidence; and
- (b) request the registered person complained about or the complainant to provide to the committee, within a specified period of at least 14 days that the committee thinks fit, any documents, things, or information that are in the possession or control of the person and that are relevant to the investigation; and
- (c) take copies of any documents provided to it; and
- (d) request the registered person complained about or the complainant to attend before the committee, at that person's own cost, on at least 14 days' notice; and
- (e) receive any evidence that it thinks fit; and
- (f) request a person giving evidence to verify a statement by statutory declaration; and
- (g) provide information to assist the complainant and the registered person complained about obtaining counsel or other advocacy assistance.

75 Way in which appeal committee must consider appeal

- (1) Before making the decision under clause 73 on a complaint or inquiry, the appeal committee must—

- (a) give the complainant, the registered person complained about, and any person alleged to be aggrieved (if not the complainant) at least 28 days' notification of—
 - (i) the time and place of the hearing; and
 - (ii) the right of those persons to be heard and represented at the hearing; and
- (b) advise each of the persons in paragraph (a) that the person must notify the committee within a specified period (which must be at least 14 days) if the person wishes to be heard by the committee on the complaint or inquiry.
- (2) The complainant, registered person complained about, and any person alleged to be aggrieved have the right to be heard and represented at the hearing and to make written submissions.
- (3) Unless the appeal committee otherwise directs, it is not permissible to recall witnesses who gave evidence before the disciplinary committee or to call other witnesses and the material before the appeal committee must be the record of the proceedings of the disciplinary committee and its report and any documents which supported it together with any additional submissions made in respect of the appeal.

76 Way in which appeal committee's decision must be made

The appeal committee's decision under clause 73 on an appeal must be made in the following way:

- (a) the committee must make its decision as soon as practicable, but may delay making the decision until the outcome is known of any other legal proceedings that may affect its findings; and
- (b) if the committee is not unanimous, the decision of the majority of the committee is the decision of the committee (but dissenting members may issue dissenting views).

77 Institution must notify and implement decision

The Institution must notify the complainant and the registered person complained about of the appeal committee's decision under clause 73 which is final and binding. The Institution must take the steps necessary to implement any orders made.

78 Notification of orders to the Council

In all cases where any order or orders are made under these regulations the Chief Executive must report to the Council of the Institution and the Council of the South Pacific Engineers Association, with particulars of such order or orders.

79 Payment of fines and costs

- (1) Any fine or costs ordered to be paid under these Regulations is immediately due, recoverable as a civil debt, and the order continues to apply whether or not a registered person is suspended or expelled under these Regulations, or resigns after the order is made.
- (2) The existence of a debt described in subclause (1) is sufficiently proved by the production of:
 - (a) The Rules of the Institution and these Regulations; and
 - (b) The declaration of the registered person on his/her form of application for registration; and
 - (c) A copy of either—
 - (i) The decision or order of the disciplinary committee setting out the fine or costs to be paid, such decision or order to be certified as a true and correct record by affixing to it the signatures of a majority of members of

the disciplinary committee (including the chairperson), present when the decision or order was made; or

- (ii) In the case of an appeal, the decision of the appeal committee duly certified as a true copy by the Chief Executive of the Institution.

80 Grants towards costs

The Institution is not liable for any expense by way of travelling, engagement of counsel, calling of any witness or in any other matter connected with the investigation, incurred either by the registered person whose conduct is under investigation or by the person or persons making the complaint; but the Council may, at its discretion, and without being deemed to make any admission of liability by so doing, make a grant to such person(s) to cover the whole or any part of such expense.

81 Enforcement of orders

- (1) If a registered person against whom an order has been made fails to comply with that order within a period of 30 days from the date at which proceedings under these Regulations are complete, or such other time as may be specified by the Chief Executive as reasonable in the circumstances for the particular order, the Chief Executive may suspend the registered person from all registers on which the person is registered until the order is complied with.
- (2) If the registered person against whom the order is made fails to comply within a further period of 30 days from the date at which the period specified in clause (1) has expired, the Chief Executive may remove the registered person from all registers on which the person is registered,
- (3) The Chief Executive must publish the fact of any action taken under clause 79 and the name of the registered person concerned on the registers on which the person was registered.

Part 5 Persons carrying out delegated functions and powers under regulations

General provisions

82 Persons carrying out delegated functions and powers under regulations

- (1) The Institution may delegate to the following persons the functions and powers given to those persons by these Regulations:
 - (a) assessors and assessment panels appointed under clause 86:
 - (b) the Competency Assessment Board appointed under clause 88:
 - (c) competency assessment reviewers appointed under clause 91:
 - (d) complaints research officers appointed under clause 92:
 - (e) the chairperson and alternate chairpersons of disciplinary committees appointed under clause 94:
 - (f) disciplinary committees appointed under clause 95;
 - (g) appeal committees appointed under clause 96.
- (2) The Council may delegate the authority to appoint persons to roles under subclause (1) to either a single member of the Council appointed for this purpose or, in the case of Complaint Research Officers, to the Chief Executive.

83 General provisions about procedures of persons carrying out decision-making functions

- (1) Every person or body that carries out decision-making functions under these Regulations must—
 - (a) give reasons for its decisions under these Regulations; and
 - (b) observe the rules of natural justice.

- (2) Except as otherwise provided in these Regulations, that person or body of persons may regulate its own procedure as it thinks fit.

84 Regulations do not limit Institution's power to carry out delegated functions and powers

The fact that the regulations give a function or power to a person does not prevent the Institution from performing the function or exercising the power.

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

- (1) The Institution may appoint a person to a role under this Part by written notice to him or her.
- (2) The Institution may, at any time,—
 - (a) revoke a person's appointment to a role under this Part by written notice to him or her;
 - (b) require a person appointed under this Part not to participate in a matter if the Institution considers that, due to a material conflict of interest or otherwise, it would be inappropriate for that person to participate in his or her role in respect of the matter;
 - (c) reconstitute any body of persons appointed under this Part by written notice to that body.
- (3) Any person appointed to a role under this Part may resign from that role by written notice to the Institution.

Persons with delegated functions relating to registration

86 Assessment panels and assessors

- (1) The Institution may appoint, for a particular case or class of cases,—
 - (a) an assessor; or
 - (b) 2 or more assessors as an assessment panel.
- (2) The Institution must—
 - (a) only appoint assessors who are either registered on at least one of the relevant registers (in the case of assessing applications for registration) or registered on at least one of the registers under review (in the case of assessments for continued registration), or persons who have at least equivalent competence; and
 - (b) include in each assessment panel at least 1 assessor who has knowledge or experience relevant to the practice area in which the person is being assessed.

87 Procedures of assessment panel

- (1) An assessment panel of 2 members must act unanimously in making decisions.
- (2) If an assessment panel of 3 or more members is not unanimous, the decision of the majority of the panel is the decision of the panel.

88 Competency Assessment Board

- (1) The Institution must appoint a Competency Assessment Board consisting of 4 or more voting members who may or may not be members of the Council of the Institution.
- (2) The Institution must appoint members who are registered persons or who have equivalent competence and, in appointing members, must have regard to—
 - (a) the extent of their experience in, and knowledge of, engineering; and
 - (b) their experience in competency assessments and quality assurance of competency assessments.
- (3) An appointment—

- (a) is for the term specified by the Institution on making the appointment, up to a maximum term of 2 years for voting members and 1 year for the nonvoting member; and
- (b) may be renewed, but no person may be appointed for more than 3 consecutive terms.

89 Chairperson of Competency Assessment Board

- (1) The Institution may appoint one of the members of the Competency Assessment Board to be the chairperson.
- (2) The chairperson must preside at all meetings of the Competency Assessment Board at which he or she is present.
- (3) In the absence of the chairperson, the members present must appoint one of their number to be the chairperson for the purposes of that meeting.

90 Meetings and procedures of Competency Assessment Board

- (1) The chairperson may convene meetings of the Competency Assessment Board and determine the date, time, and place on which, and the method by which, meetings are held.
- (2) The quorum necessary for the transaction of business at a meeting is a majority of all members (and the non-voting member may be counted in the quorum).
- (3) All questions arising at any meeting of the Competency Assessment Board must be decided by a majority of votes of the voting members who are present and voting.
- (4) The chairperson has a deliberative vote and, in the case of an equality of votes, also has a casting vote.
- (5) A resolution signed or assented to in writing (whether sent by post, delivery, or electronic transmission) by all voting members is as valid and effectual as if it had been passed at a meeting of the Competency Assessment Board duly called and constituted.
- (6) The resolution may consist of several documents containing the same resolution, each signed or assented to in writing by 1 or more voting members.

91 Competency assessment reviewer

- (1) The Institution may appoint, for a particular case or class of cases, a competency assessment reviewer.
- (2) The Institution must appoint competency assessment reviewers who—
 - (a) are registered persons or who have equivalent competence; or
 - (b) have other qualifications or experience that the Institution considers relevant to the subject matter of the case.

Persons with delegated functions relating to disciplinary matters

92 Complaints research officers

- (1) The Institution may appoint, for a particular case or class of cases, a complaints research officer
- (2) The Institution must appoint complaints research officers who—
 - (a) are registered persons or who have equivalent competence; or
 - (b) have other qualifications or experience that the Institution considers relevant to the subject matter of the case.
- (3) In appointing a complaints research officer for a case or class of cases, the Institution must endeavour to select a person who does not have a material conflict of interest on the case or class of cases.

93 Institution must keep list of persons who may be members of committees

- (1) The Institution must keep a list of persons who may be members of disciplinary committees.

- (2) The Institution must select persons for the list who are registered persons or who have equivalent competence and, in selecting persons, must have regard to—
 - (a) the extent of their experience in, and knowledge of, engineering; and
 - (b) their experience in competency assessments; and
 - (c) their experience in investigating and hearing complaints relating to engineering or other professions.

94 Chairpersons and alternate chairpersons of disciplinary committees

- (1) The Institution must appoint persons from the list kept under clause 93 to be the Chairperson of Disciplinary Committees, and the alternate Chairperson of Disciplinary Committees.
- (2) The Institution may appoint more than one alternate Chairperson of Disciplinary Committees.
- (3) An appointment—
 - (a) is for the term specified by the Institution on making the appointment up to a maximum term of 2 years; and
 - (b) may be renewed, but no person may be appointed for more than 3 2-year terms.
- (4) An alternate Chairperson has all the functions, duties, and powers of the Chairperson under these rules if—
 - (a) there is no Chairperson or, for any reason, the Chairperson is unable to perform and exercise his or her functions, duties, and powers as Chairperson; or
 - (b) in relation to a particular matter, the Institution refers the matter to the alternate Chairperson instead of the Chairperson.

95 Disciplinary committee

- (1) The Institution 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 clause 93; and
 - (c) 1 person who—
 - (i) is not an engineer; and
 - (ii) is nominated by a body that the Institution considers to be representative of consumer interests.
- (2) The Institution 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.
- (3) Any 2 persons appointed under subclause (2) must consist of—
 - (a) 1 person from the list kept under clause 93; and
 - (b) 1 person who—
 - (i) is not an engineer; and
 - (ii) is nominated by the Institution.
- (4) In appointing a member to a disciplinary committee for a case or class of cases, the Institution must endeavour to ensure that the member does not have a material conflict of interest on the case or class of cases.

96 Appeal Committee

- (1) The Institution may appoint for a particular case or class of cases, an appeal committee consisting of—
 - (a) 2 Institution representatives, being either the President and one Past-President, or two Past-Presidents, and
 - (b) a barrister of the High Court of New Zealand.

- (2) In appointing a member to an appeal committee for a case or class of cases, the Institution must endeavour to ensure that the member does not have a material conflict of interest on the case or class of cases.

Part 6 Regulation-making procedure

97 Procedure for making, amending, or revoking these regulations

- (1) Before the Institution makes a regulation, it must—
 - (a) publish—
 - (i) the terms of the proposed regulation; and
 - (ii) the reasons for its proposal; and
 - (b) give persons a reasonable opportunity to make submissions on the proposal
- (2) In this regulation, **publish** means publish by all or any of the following means:
 - (a) on a website maintained by the Institution;
 - (b) by specifically notifying registered persons and, if practicable, other engineers;
 - (c) in journals for engineering;
 - (d) by any other means that the Institution considers necessary or desirable to give notice to professional engineers and other persons whom it reasonably considers to be representative of other persons or classes of persons affected by the proposed regulation.
- (3) The requirements of this clause that apply to making a regulation apply also to any amendment or revocation of a regulation.

98 Exception for cases of urgency

Clause 97(1)(a) and (b) does not apply if the Institution considers that it is necessary or desirable in the public interest that the regulation be made urgently, but in this case it must comply with those paragraphs to the extent it considers practicable given the urgency.

Schedule 1

Registers created under these regulations

The XXX national section of the Register of South Pacific Professional Engineers – SPPEng(XXX)

The XXX national section of the Register of South Pacific Engineering Technology Practitioners – SPETPract(XXX)

The XXX national section of the Register of South Pacific Certified Engineering Technicians – SPCertETn(XXX)

Schedule 2

Specifications of Competence Registers named in Schedule 1

1. XXX National Section of the Register of South Pacific Professional Engineers (XXX)

Title: South Pacific Professional Engineer (XXX)

Post nominal SPPEng(XXX)

Minimum standard: To meet the minimum standard for registration on the register a person must demonstrate that he or she is able to practise competently in his or her practice area to the standard of a reasonable professional engineer, and

Competence elements

- (a) comprehend, and apply his or her knowledge of, accepted principles underpinning—
 - (i) widely applied good practice for professional engineering; and
 - (ii) good practice for professional engineering that is specific to the jurisdiction in which he or she practices within the South Pacific region (XXX); and
- (b) define, investigate, and analyse complex engineering problems in accordance with good practice for professional engineering; and
- (c) design or develop solutions to complex engineering problems in accordance with good practice for professional engineering; and
- (d) exercise sound professional engineering judgement; and
- (e) be responsible for making decisions on part or all of 1 or more complex engineering activities; and
- (f) manage part or all of 1 or more complex engineering activities in accordance with good engineering management practice; and
- (g) identify, assess, and manage engineering risk; and
- (h) conduct his or her professional engineering activities to an ethical standard at least equivalent to the code of ethical conduct; and
- (i) recognise the reasonably foreseeable social, cultural, and environmental effects of professional engineering activities generally; and
- (j) communicate clearly to other engineers and others that he or she is likely to deal with in the course of his or her professional engineering activities; and
- (k) maintain the currency of his or her professional engineering knowledge and skills.

Engineering activities complex engineering activities means engineering activities or projects that have some or all of the following characteristics:

- (a) involve the use of diverse resources (and, for this purpose, resources includes people, money, equipment, materials, and technologies):

- (b) require resolution of significant problems arising from interactions between wide-ranging or conflicting technical, engineering, and other issues:
- (c) have significant consequences in a range of contexts:
- (d) involve the use of new materials, techniques, or processes or the use of existing materials, techniques, or processes in innovative ways

Engineering problems

complex engineering problems means engineering problems that have some or all of the following characteristics:

- (a) involve wide-ranging or conflicting technical, engineering, and other issues:
- (b) have no obvious solution and require originality in analysis:
- (c) involve infrequently encountered issues:
- (d) are outside problems encompassed by standards and codes of practice for professional engineering:
- (e) involve diverse groups of stakeholders with widely varying needs:
- (f) have significant consequences in a range of contexts:
- (g) cannot be resolved without in-depth engineering knowledge.

Charges

Initial registration

	Charge or rebate Amount
Registration application charge:	\$2,652.50
<i>less any of the following rebates that apply:</i>	
if there is no engineering knowledge assessment:	\$1,000.00
if there is no interactive assessment:	\$725.00
for each assessor (if any) who is not remunerated for an assessment during which there is an interactive assessment:	\$530.00
for each assessor (if any) who is not remunerated for an assessment during which there is no interactive assessment:	\$280.00
if the applicant applies for registration within 6 months after achieving equivalent competence through assessment by the Institution:	\$375.00
if the applicant applies for registration within 24 months (but later than 6 months) after achieving equivalent competence through assessment by the Institution:	\$125.00

Registration certificates

	Charge or rebate Amount
Registration certificate charge for a certificate issued for 1 year commencing 1 January:	\$178.00
<i>less the following rebates if it applies</i>	
the registrant is a member of SPEA:	\$38.00
Registration certificate charge for each calendar month, or part of a calendar month, for which a certificate is issued if issued for less than 1 year:	\$14.83

Continued registration

	Charge or rebate Amount
Interactive assessment charge:	\$725.00
<i>less the following rebate if it applies:</i>	

for each assessor (if any) who is not remunerated for the interactive assessment:

\$280.00

Review of registration decision procedures

Charge Amount

Charge for review of decision procedures:

\$750.00

Voluntary abeyance

Charge Amount

Charge for each 12-month period of abeyance:

\$113.00

2. **XXX National Section of the Register of South Pacific Engineering Technology Practitioners**

Title	South Pacific Engineering Technology Practitioner (XXX)
Post nominal	SPETPract(XXX)
Minimum standard	To meet the minimum standard for registration on the register a person must demonstrate that he or she is able to practise competently in his or her practice area to the standard of a reasonable engineering technology practitioner.
Competence elements	<ul style="list-style-type: none">(a) Comprehend and apply the detailed knowledge underpinning good practice as an engineering technologist.(b) Comprehend and apply knowledge underpinning good practice as an engineering technologist. that is specific to the jurisdiction in which he/she practices within the South Pacific region (XXX)(c) Identify, clarify, and analyse broadly defined engineering problems in accordance with good engineering practice(d) Design or develop solutions to broadly defined engineering problems by applying accepted procedures or methodologies(e) Be responsible for making decisions on part or all of one or more broadly defined engineering activities(f) Manage part or all of one or more broadly defined engineering activities in accordance with good management practice(g) Identify risks and apply risk management techniques to broadly-defined engineering problems(h) Conduct engineering activities to an ethical standard at least equivalent to the relevant code of ethical conduct(i) Recognise the reasonably foreseeable social, cultural and environmental effects of broadly-defined engineering functions generally(j) Communicate clearly with others in the course of broadly defined engineering activities(k) Maintain the currency of engineering knowledge and skills(l) Exercise sound engineering judgement
Engineering activities	<p>Broadly defined engineering activities or projects have some or all of the following characteristics:</p> <ul style="list-style-type: none">(a) involve a variety of resources (and for this purposes resources includes people, money, equipment, materials, information and technologies)(b) require resolution of occasional interactions between technical, engineering and other issues, of which few are conflicting(c) involve the use of new materials, techniques or processes in innovative ways(d) have consequences that are most important locally, but may extend more widely

- (e) require a knowledge of normal operating procedures and processes

Engineering problems

Broadly-defined engineering problems have some or all of the following characteristics:

- (a) involve a variety of factors which may impose conflicting constraints
- (b) can be solved by application of well-proven analysis techniques
- (c) requires knowledge of principles and applied procedures or methodologies
- (d) belong to families of familiar problems which are solved in well-accepted ways
- (e) may be partially outside those encompassed by standards or codes of practice
- (f) involve several groups of stakeholders with differing and occasionally conflicting needs
- (g) have consequences which are important locally, but may extend more widely
- (h) are parts of, or systems within complex engineering problems

Charges

Initial registration

	Charge or rebate Amount
Registration application charge:	\$2,652.50
<i>less any of the following rebates that apply:</i>	
if there is no engineering knowledge assessment:	\$1,000.00
if there is no interactive assessment:	\$725.00
for each assessor (if any) who is not remunerated for an assessment during which there is an interactive assessment:	\$530.00
for each assessor (if any) who is not remunerated for an assessment during which there is no interactive assessment:	\$280.00
if the applicant applies for registration within 6 months after achieving equivalent competence through assessment by the Institution:	\$375.00
if the applicant applies for registration within 24 months (but later than 6 months) after achieving equivalent competence through assessment by the Institution:	\$125.00

Registration certificates

	Charge or rebate Amount
Registration certificate charge for a certificate issued for 1 year commencing 1 January:	\$178.00
<i>less the following rebates if it applies</i>	
the registrant is a member of SPEA:	\$38.00
Registration certificate charge for each calendar month, or part of a calendar month, for which a certificate is issued if issued for less than 1 year:	\$14.83

Continued registration

	Charge or rebate Amount
Interactive assessment charge:	\$725.00
<i>less the following rebate if it applies:</i>	
for each assessor (if any) who is not remunerated for the interactive assessment:	\$280.00

Review of registration decision procedures

Charge for review of decision procedures:	Charge Amount
	\$750.00

Voluntary abeyance

Charge for each 12-month period of abeyance:	Charge Amount
	\$113.00

3. **XXX National Section of the Register of South Pacific Certified Engineering Technicians**

Title	South Pacific Certified Engineering Technician (XXX)
Post nominal	SPCertETn(XXX)
Minimum standard	To meet the minimum standard for registration on the register a person must demonstrate that he or she is able to practise competently in his or her practice area to the standard of a reasonable engineering technician.
Competence elements	<ul style="list-style-type: none">(a) Comprehend and apply detailed knowledge underpinning good practice as an engineering technician,(b) Comprehend and apply knowledge underpinning good practice as an engineering technician that is specific to the jurisdiction in which he/she practices within the South Pacific region (XXX).(c) Identify, state and analyse well-defined engineering problems in accordance with good practice for engineering(d) Design or develop solutions to well-defined engineering problems by applying accepted procedures and methodologies(e) Be responsible for making decisions on part or all of one or more well-defined engineering activities(f) Manage part or all of one or more well-defined engineering activities in accordance with good engineering management practice(g) Identify risk and apply risk management techniques to well-defined engineering problems(h) Conduct engineering activities to an ethical standard at least equivalent to the relevant code of ethical conduct(i) Recognise the reasonably foreseeable social, cultural and environmental effects of well-defined engineering activities generally,(j) Communicate clearly with others in the course of his or her well defined engineering activities(k) Maintain the currency of engineering knowledge and skills(l) Exercise sound judgement
Engineering activities	<p>Well-defined engineering activities means engineering activities or projects that have some or all of the following characteristics:</p> <ul style="list-style-type: none">(a) Involve a limited range of resources (and for this purpose resources includes people, money, equipment, materials, information and technologies)(b) Require resolution of interactions between limited technical and engineering issues with little or no impact of wider issues(c) Involve the use of existing materials techniques, or processes in new ways(d) Have consequences that are locally important and not far-reaching

- (e) Require a knowledge of practical procedures and practices for widely-applied operations and processes

Engineering problems

Well-defined engineering problems means engineering problems having some or all of the following characteristics:

- (a) involve several issues, but with few of these exerting conflicting constraints,
- (b) can be solved in standardised ways,
- (c) can be resolved using limited theoretical knowledge but normally requires extensive practical knowledge,
- (d) are frequently encountered and thus familiar to most practitioners in the practice area,
- (e) are encompassed by standards and/or documented codes of practice,
- (f) involve a limited range of stakeholders with differing needs
- (g) have consequences which are locally important and not far-reaching
- (h) are discrete components of engineering systems

Charges

Initial registration

	Charge or rebate Amount
Registration application charge:	\$2,652.50
<i>less any of the following rebates that apply:</i>	
if there is no engineering knowledge assessment:	\$1,000.00
if there is no interactive assessment:	\$725.00
for each assessor (if any) who is not remunerated for an assessment during which there is an interactive assessment:	\$530.00
for each assessor (if any) who is not remunerated for an assessment during which there is no interactive assessment:	\$280.00
if the applicant applies for registration within 6 months after achieving equivalent competence through assessment by the Institution:	\$375.00
if the applicant applies for registration within 24 months (but later than 6 months) after achieving equivalent competence through assessment by the Institution:	\$125.00

Registration certificates

	Charge or rebate Amount
Registration certificate charge for a certificate issued for 1 year commencing 1 January:	\$178.00
<i>less the following rebates if it applies</i>	
the registrant is a member of SPEA:	\$38.00
Registration certificate charge for each calendar month, or part of a calendar month, for which a certificate is issued if issued for less than 1 year:	\$14.83

Continued registration

	Charge or rebate Amount
Interactive assessment charge:	\$725.00
<i>less the following rebate if it applies:</i>	
for each assessor (if any) who is not remunerated for the interactive assessment:	\$280.00

Charge for review of decision procedures: **Charge Amount**
\$750.00

Voluntary abeyance

Charge for each 12-month period of abeyance: **Charge Amount**
\$113.00

Schedule 3

Information that must be contained in form for assessments

An assessment form for an applicant for registration or candidate for continued registration must contain the following information:

- (a) the full name of the person; and
- (b) the person's contact details for matters relating to the assessment and for ongoing matters relating to his or her registration; and
- (c) whether or not the person consents to his or her contact details being included on the register and, if so, the appropriate contact details; and
- (d) whether the assessment is for initial registration or continued registration; and
- (e) the practice area in which the person wishes to be assessed and the fields of engineering within which the practice area lies; and
- (f) the contact details of 2 independent referees who are registered on one or more of the relevant registers (in the case of an application for registration), or are registered on one or more of the registers under review (in the case of a candidate for continued registration), or who have equivalent competence; and
- (g) details of any criminal convictions of the person by any court for an offence punishable by imprisonment for a term of 6 months or more.