



# BRIEFING TO INCOMING MINISTERS: OCCUPATIONAL REGULATION OF ENGINEERS

The previous Government was working towards significant changes to the way engineers are regulated. With the future of this work uncertain, we will continue to drive reform within the current Chartered Professional Engineers system. This briefing provides background for Ministers on the history of occupational regulation policy work over the last decade, Engineering New Zealand's current position and next steps.

## BACKGROUND

Since the Canterbury Earthquakes Royal Commission released its findings in November 2012, government has been reviewing the way engineers are regulated. The goal of this work has been to support better public safety outcomes by limiting some (or all) engineering work to those qualified to undertake this work.

Currently, there is no mandatory registration for engineers in New Zealand. Some engineers voluntarily register as Chartered Professional Engineers or join Engineering New Zealand as members. Both Chartered Professional Engineers and members of Engineering New Zealand are subject to a Code of Ethical Conduct and a complaints/disciplinary process.

Although registration as a Chartered Professional Engineer (CPEng) is not mandatory in New Zealand, some industries require engineers signing documents to be registered to be CPEng (for example the building system where Building Consent Authorities require engineers to sign Producer Statements).

### CPEng system and the case for legislative change

The CPEng system was established in legislation in 2002 (Chartered Professional Engineers of New Zealand Act 2002 and Chartered Professional Engineers of New Zealand Rules (No 2) 2002). The Act named the Institution of Professional Engineers New Zealand (Engineering New Zealand) as the Registration Authority. In our role as the Registration Authority, we administer the CPEng system by following the Rules on registration and disciplinary proceedings.

Since 2002 the CPEng Rules have remained largely unchanged, although much has changed within the industry over this time. The reason the Rules have not been changed recently is because we have been backing the government's own work on legislative reform to drive changes to the way engineers are regulated. Our position has been that practising as an engineer comes with substantive public safety implications and that engineers should be required to be registered and/or licensed to undertake certain engineering work. The only way to require engineers to be registered was to change legislation. This widespread change cannot be achieved under the current Act.

## Catch-22 scenario

Our position on regulatory reform has meant that we have backed the government to drive change, supporting redundancy of the CPEng system and ultimately disinvestment in the current system. We were following the government's lead. However, this is where it has stalled. Over the last decade government has endeavoured three times to undertake significant legislative reform and each time it has not progressed.

In 2020, recognising that we were at risk of atrophy, we consulted with members on a review of the CPEng system and began investing to strengthen the current system. Our position was that, while we supported the government's work on regulatory reform, we also needed to manage the current system and the risks that exist within the system.

## Bill drafting and election – 2023

In the last Parliamentary term (2020-2023), the Ministry of Business, Innovation and Employment (MBIE) again consulted on the occupational regulation of engineers (May/June 2021). In March 2022 Cabinet made decisions on a future system where all engineers would need to be registered and some engineers would need to be licensed. By mid-2023 work on a new Engineers Registration Bill began.

In October 2023 New Zealand voted in a new Government. Coalition parties campaigned on the promise of reducing government, public spending, and regulatory intervention. These themes are evidenced in coalition deals. The future of reforms to the way engineers are regulated has again become uncertain.

## What legislative reform can and cannot achieve

Given the current uncertainty, it is timely to consider what legislative reform can and cannot achieve. Legislative reform can require engineers to be registered. It is our view that this is a good thing, because the work engineers do is important and has significant public safety implications. We need the right people doing engineering work, specifically in high-risk areas. We also need to ensure engineers can be held to account when things go wrong.

Legislative reform can also address some of the major operational challenges we have within the current CPEng system. The CPEng system is challenging to administer and there are several significant changes that would make it better. Some of those changes are in the Act and many are in the Rules.

However, legislative reform cannot, and will not, address every issue within engineering. It is only one part. Occupational regulation does not address poor consent processes, issues with industry practices and standards or occurrences of fraud and forgery. These issues sit across government, firms, regulators, educators and professional bodies. Engineering New Zealand is working with partners to affect change wherever possible.

## Risks

Change brings with it risks and benefits. We have highlighted the benefits above, but the risks are not insignificant. Should the proposed draft legislation eventually proceed, we expect increased compliance costs both to the profession and to government. There is a risk of poor uptake in the new system. There is a risk of public confusion and loss of alignment with international standards, among other things.

## Opportunities

Although the CPEng system cannot require engineers to be registered, it can be strengthened to improve public confidence and public safety. We have started on that journey. With investment, we can achieve many improvements through the current legislation.

Engineering New Zealand maintains the only register of professional engineers in New Zealand. There is an opportunity to extend the use of CPEng into new industries reliant on engineering. Already CPEng is embedded in the building system, including new dam safety regulations. It is also required for Heavy Vehicle Certifiers. We know the water industry is considering registration requirements for engineers working within that industry. CPEng can be used for this.

We have opportunities to evolve the CPEng system to introduce classes of engineering where required.

# ENGINEERING NEW ZEALAND'S POSITION

Engineering New Zealand supports regulation of the engineering professionals for public safety purposes. For the last decade, we have been working with government to change the way engineers are regulated. Despite our efforts, there has been no legislative change.

Recognising the incoming Government is unlikely to prioritise legislative change along these lines, we will now be focusing our time and resources on strengthening the CPEng regulations so it can achieve many of the reform objectives with minimal disruption. Engineering New Zealand has already established a new Chartered Professional Engineers Board to provide independent governance of the Registration Authority. We have also focused on improvements to both the registration and disciplinary processes. This process improvement work will continue.

In addition to improving processes, we will begin advocacy to Ministers and officials for changes to the CPEng Act to strengthen its purpose and levers, as well as a review and rewrite of the CPEng Rules. Details are outlined below. Changes to the CPEng Act require the leadership of MBIE's policy teams and Ministerial sign-off. These changes may or may not happen in this next term of Government. Changes to the CPEng Rules can be led by Engineering New Zealand but require the support of MBIE and the Parliamentary Counsel Office. All changes require consultation with the engineering profession and industry.

## Chartered Professional Engineers Act of New Zealand 2002

Proposed changes include:

- Changes to the purpose of the Act (section 3) to establish the title of chartered professional engineer as a mark of quality and to protect the health and safety of the public by ensuring the competency of chartered professional engineers
- Increased fines for anyone using the title of chartered professional engineer without being registered (clause 7) and increased disciplinary penalties (section 22)
- Changes to liability settings (section 33)

## Chartered Professional Engineers Rules (No 2) 2002

Rewrite to implement procedural changes to streamline the system and better address risk across both registration and disciplinary procedures.

# IMPACT

Engineering New Zealand will now further prioritise its own occupational regulation work under the current CPEng Act. We will establish a work programme that involves:

- Advocating for changes to the CPEng Act, noting that this may take years as it is unlikely to be a priority of the new Government.
- Improve regulation under the current regime, reviewing and rewriting the CPEng Rules to improve CPEng regulation for public safety.
- Changes to the Code of Ethical Conduct to include public safety, the Treaty of Waitangi/te Tiriti o Waitangi, among other things.
- Consequential membership class changes

Engineering New Zealand will also consider consequential changes to its membership classes including the possible disestablishment of its Chartered Member class. There continues to be confusion between the Chartered Membership class and CPEng registration given that both are competency assessed. Chartered Membership was originally set up to pre-empt legislative change. With CPEng continuing, disestablishing the Chartered Member will be explored, with consideration given to other options to register technicians, technologists, and professional engineering geologists. We will work with the Engineering Associates Registration Board on this.

## NEXT STEPS

As we scope up the work ahead, we will keep officials and Ministers informed. We welcome ongoing conversations with officials and Ministers on how best to protect public safety and support improved outcomes across the engineering profession and industry.