



**engineering  
new zealand**  
Institute of Engineering Professionals

## HOW ARE OTHER OCCUPATIONS REGULATED IN NEW ZEALAND?

A number of different systems exist for regulating professions in New Zealand. But even across these different systems, other professions have common and wide-ranging powers embedded in their legislation to protect the public that are not mirrored in our current Chartered Professional Engineer regulation.

### REGULATION OF HEALTH PRACTITIONERS

Sixteen different health professions in New Zealand are regulated under one omnibus piece of legislation – the Health Practitioners Competence Assurance Act 2003. The principal purpose of the Act is to protect the health and safety of members of the public, by providing ways to ensure that all health practitioners are competent and fit to practise their professions.

The Act establishes separate regulatory authorities, including the Medical Council or Nursing Council, to enact the legislation for each group of health professions. Any person who wants to practise in one of those 16 regulated professions must be registered with the relevant authority, and hold an annual practising certificate issued by that authority.

Each authority is responsible for describing and defining the scopes of practice and boundaries of each profession and ensuring professional competence (through initial registration and evidence of continuing professional competence on the renewal of each practising certificate). Registered practitioners can only perform activities within the scope of practice they are registered in.

The legislation also provides the authorities with wide-ranging tools for ensuring that health practitioners are safe to practise. This include powers to obtain information for assessment and investigatory purposes, and powers to suspend a practitioner's practising certificate pending a review or assessment, to impose conditions on a scope of practice, or to alter a practitioner's scope of practice.

The Act also includes mandatory reporting requirements. For example, if an authority has reason to believe that a health practitioner may pose a risk of harm to the public, it must promptly notify certain agencies (such as the Director-General of Health and the ACC) and the health practitioner's employer (or person the health practitioner works in partnership or association with). Likewise, employers must notify the relevant authority if a health practitioner resigns or is dismissed from his or her employment for reasons relating to competence.

Similar powers and reporting requirements apply in the case of concerns about a health practitioner's ability to perform the functions required for the practice of their profession because of a mental or physical condition.

Disciplinary matters are heard by a dedicated Health Practitioners Disciplinary Tribunal under a formal process where charges are laid.

There are health professions that are not regulated by the Act, for example, audiologists and speech therapists. But the Act is drafted in a way that additional professions can be added over time. Whether a health profession is regulated through the Act depends on a number of things, such as:

- the level of risk of harm of that profession;
- whether the practitioners work closely with, or under the supervision of, a regulated professional; and
- whether the employment arrangements for that profession provide an appropriate form of regulation outside the Act to minimise harm to the public. For example, an employer such as a District Health Board may have in place education and training qualification requirements for employees in non-regulated health professions.

Statutory regulation under the Act is only used if these other forms of regulation are not sufficient to protect the public where there is a risk of harm from the practice of the profession.

## REGULATION OF TEACHERS

The Education Council is the authority responsible for registering teachers under the Education Act 1989. Among other things, its are to:

- establish and maintain criteria for teacher registration and to carry out the functions relating to teacher registration;
- establish and maintain standards for ongoing practice and criteria for practising certificates;
- set criteria for reporting serious misconduct and competence issues;
- monitor and enforce mandatory reporting; and
- perform disciplinary functions relating to teacher misconduct.
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The Council must register an applicant if it is satisfied that the applicant is of good character, is fit to be a teacher, is satisfactorily trained to teach, and meets other Council criteria for registration.

The Education Act also gives the Council wide-ranging tools for ensuring that teachers are safe to practise. For example, under the Education Act employers are required to immediately report to the Council if they have reason to believe that a teacher has engaged in serious misconduct or does not have the required level of competence. And, when an employer dismisses a teacher for any reason, the employer must immediately report the dismissal to the Council.

Furthermore, committees investigating a complaint about a teacher's conduct can suspend the teacher's practising certificate pending the outcome of its investigatory process where necessary to protect the safety of children.

The Education Council also has powers to review competence and consider any impairment affecting a teacher's performance.

Like with health practitioners, disciplinary matters are heard by a dedicated Tribunal under a formal process where charges are laid.

If the Council cancels a teacher's registration, it must take all reasonable steps to inform that person's employer, and may publish on its website the names of people who have had their registration cancelled.

## REGULATION OF LAWYERS

The New Zealand Law Society is responsible under the Lawyers and Conveyancers Act 2006 for regulating lawyers. No person may practise law in New Zealand unless they have a practising certificate issued by the Law Society.

Lawyers apply to the Law Society for a practising certificate, and a certificate is granted where certain criteria are met, including that the person is considered to be a fit and proper person to hold a practising certificate.

The Law Society's functions include to:

- control and regulate lawyers engaged in legal practice in New Zealand;
- uphold the fundamental obligations imposed on lawyers who provide regulated services;
- monitor and enforce the provisions of the Act, regulations and rules that relate to lawyers; and
- assist and promote law reform.

The Law Society operates the Lawyers Complaints Service, which handles all complaints about:

- A lawyer or a former lawyer;
- An incorporated law firm or a former incorporated law firm;
- Someone who is not a lawyer but who is or was an employee of a lawyer or an incorporated law firm.

All lawyers must have procedures for handling complaints and they must tell their clients about those procedures before they commence work for the client.

If a complaint is made to the Lawyers Complaint Service, it is referred to a Standards Committee to consider. Standards Committees are made up of lawyers and non-lawyers, and have powers to require the production of information and inquire into a complaint. But they can also recommend early resolution or decide that no action is warranted.

The standards committee also has wide-ranging powers to make orders against a lawyer to resolve a complaint. It may find that there has been unsatisfactory conduct by the lawyer and it may make orders against the lawyer without the need to go through a disciplinary hearing. This can include, for example, that the lawyer apologise to the complainant, compensate a complainant (up to \$25,000) and/or to cancel fees, or undertake practical training or education. It can also fine a lawyer (up to \$15,000) and censure or reprimand a lawyer.

Standards committees can also intervene in a lawyer's practice to protect the interests of persons who have suffered loss, or are likely to suffer loss, or are otherwise likely to be adversely affected as a result of certain actions by a lawyer, such as in relation to the lawyer's management of monies or impairment caused by the lawyer's mental or physical condition.

If a matter is serious, a standards committee may refer it for discipline. Just as with health practitioners and teachers, disciplinary matters are heard by a dedicated tribunal under a formal process where charges are laid. The standards committee may apply to the disciplinary tribunal for an order that, pending the determination of the charge, the lawyer be suspended from practice.