

Professional Engineering Body Recognition GUIDELINE

Secretary of the Department of Customer Service's Guideline for professional engineering bodies seeking NSW Government recognition to register or recognise professional engineers

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Introduction

The *Design and Building Practitioners Act 2020* (the Act), and the *Design and Building Practitioners Regulation 2021* (the Regulation), allows the Secretary of the Department of Customer Service (the Secretary) to register a person as a professional engineer. The Secretary can register a person as a professional engineer who conducts professional electrical, civil, geotechnical, structural, fire safety or mechanical engineering work, on a Class 2 building or a building that includes a Class 2 part, and:

1. **Pathway 1:** meets the eligibility requirements specified in the Act including qualifications, knowledge, skills and 5 years of relevant work experience; has a National Police Check certificate and meets the insurance requirements (section 54); or,
2. **Pathway 2:** has been recognised or registered as a professional engineer by a recognised engineering body (section 55); or
3. **Pathway 3:** is a member of an occupational association that participates in a Professional Standards Scheme, approved in accordance with the *Professional Standards Act 1994* (NSW).

This Guideline summarises the requirements under the Act and Regulation that a recognised engineering body, and its recognition or registration scheme (the scheme), must meet to satisfy the Secretary that it can recognise or register professional engineers for the purpose of the Act in accord with Pathway 2 and section 55 of the Act. If the Secretary is satisfied that an organisation, and its scheme, meet the requirements of the Act and Regulation, the Secretary will provide the applicant organisation with a written notice of a decision to grant recognition of the organisation as a recognised engineering body.

Persons recognised or registered by a scheme operated by a recognised engineering body may then be fast-tracked for registration in New South Wales as a professional engineer under the Act.

This Guideline also summarises the ongoing requirements for a recognised body under the Act and the Regulation.

Renewing an engineering body recognition

This Guideline provides guidance for initial recognition of an engineering body. Engineering body recognition may be renewed upon application by the engineering body. Applications for renewal may be made within 3 months prior to the expiry of the engineering body recognition and must:

1. be in a form approved by the Secretary
2. include or be accompanied by information or evidence that is required to assess the application; and,
3. be accompanied by the fee prescribed in the Regulation.

Reference: section 55(3)(a); clause 52A

Overview of this guideline

Part 1 sets out the **process** for a professional engineering body, operating a scheme, to be recognised by the Secretary.

Part 2 summarises the **requirements** under the Act and the Regulation that a recognised engineering body, and its scheme, must satisfy to be recognised by the Secretary.

Part 3 sets out **standard** and **specific conditions** under the Act and the Regulation that a recognised engineering body, and its scheme, must comply with to maintain its recognition.

Part 4 sets out the Secretary's powers to **supervise** the co-regulation of the engineering body and its scheme.

Part 5 sets out the **Secretary's decisions** that may be reviewed.

Part 6 sets out the relevant classes of professional engineers under the Act and Regulation to which this Guideline may apply.

Part 7 sets out a **glossary** of key terms used in this Guideline.

Part 1: Process for engineering body recognition

1.1 Submitting an application

Organisations seeking recognition of their scheme must submit an application to the Secretary in the approved form. Each application must address the requirements outlined in **Part 2** of this Guideline.

1.2 Assessment of applications

The Secretary will assess each application and determine to whether or not the professional engineering body should be recognised.

The Secretary may request additional information from the applicant organisation considered necessary to enable proper consideration of the application before making a determination.

If the Secretary does not give notice of the decision to grant or refuse the application within 60 business days, the Secretary is taken to have refused to grant recognition.

1.3 Determination of applications

In determining applications for recognition, the Secretary must be satisfied that the application addresses the matters outlined in **Part 2** of this Guideline. The Secretary may also take into consideration any other matter that the Secretary sees fit, in the public interest, when determining whether to recognise an engineering body and its scheme. This includes, but is not limited to, the Secretary's opinion as to:

1. the adequacy of an applicant organisation and its proposed scheme
2. how an applicant organisation and its proposed scheme compares to other registration pathways; or
3. the impact on public safety or building outcomes if an applicant organisation and its proposed scheme were to be approved.

1.4 Grounds for acceptance or refusal of an application for recognition as a recognised engineering body

The applicant organisation, and its scheme, may be recognised by the Secretary if:

1. it meets the requirements as set out in section 55 of the Act, and
2. agrees to comply with the conditions set out in clauses 52C-52H of the Regulation.

Alternatively, an application for recognition may be refused on the basis of clauses 52B-52C of the Regulation, or if the application does not comply with any requirement imposed by or under the Act or Regulation.

1.5 Notification of decision

The applicant organisation will be notified in writing of the outcome of the determination. Generally notification is expected within 60 business days of receipt of a completed application, and all required supporting information being received. If an applicant organisation has not been advised within 60 business days, the applicant organisation has not been recognised. In calculating the 60-business day period, any number of days between the Secretary making a written request for further information from the applicant until the day on which the information is provided is not included. Where an application is granted or refused, the Secretary will provide the applicant organisation with notice of the decision within 28 business days of making the decision.

1.6 Authority conferred on recognised engineering body

The Secretary will provide a written notification to the engineering body recognising the recognised professional engineering body and its scheme for professional engineers.

A body that is a recognised engineering body is able to:

1. Register or recognise individuals under the scheme as professional engineers; and
2. Represent that its scheme has been recognised by the Secretary to register or recognise professional engineers.

An engineering body may be recognised for a period of up to 5 years.

1.7 Conditions of recognition

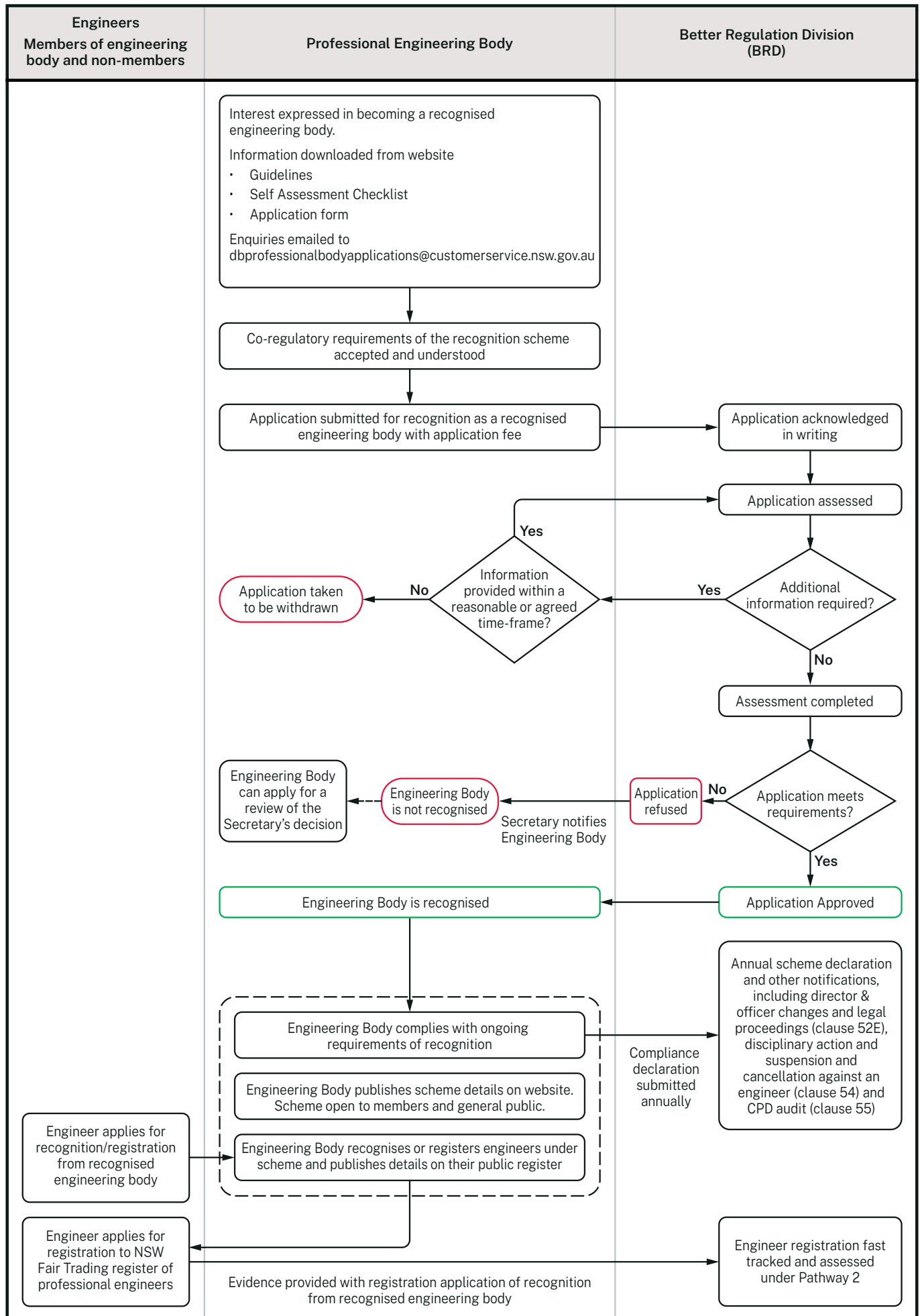
A recognised engineering body must comply with the general conditions of recognition outlined in **Part 3** of this Guideline and any specific conditions of recognition imposed by the Secretary in order to maintain its recognition.

1.8 Coregulatory supervision of engineering body recognition

The Secretary's powers, outlined in **Part 4** of this Guideline, include the ability to:

1. require an application to be accompanied by a fee: for recognition as an engineering body; variation of the recognition, conditions or body's scheme; for renewal of recognition, or for revocation of recognition.
2. impose conditions on a recognised engineering body
3. request information from a recognised engineering body
4. suspend or cancel recognition of an engineering body
5. require the engineering body to include specified information on the body's website
6. audit or investigate or monitor a recognised engineering body
7. impose penalties.

1.9 Engineering Body recognition process



Part 2: Requirements for engineering body recognition

2.1 The applicant organisation

2.1.1 Legal Entity

The organisation must provide evidence that it is a registered company under the *Corporations Act 2001* (Cth) or an incorporated association registered under the *Associations Incorporation Act 2009* (clause 52F(2)).

2.1.2 Nature of the organisation

The organisation must provide *details of the organisation*, including:

1. an outline of its history
2. nature of incorporation for example, whether the organisation is operated for profit, is membership-based, or is a registered charity
3. governance and management structure, including persons involved in the management of the scheme
4. core activities, including any activities which may give rise to a perceived or actual conflict of interest with the operation of the scheme
5. the organisation's experience, or authorisation by an Australian jurisdiction, to undertake assessment, registration and oversight of professional engineers.

2.1.3 Designated contact

The organisation must provide a primary contact person for the engineering body to whom the Secretary will direct all communications relating to the assessment process, and if the engineering body is recognised, all ongoing communications. The organisation must provide details including:

1. name
2. position title
3. email address
4. work phone number
5. postal address
6. office address.

A recognised engineering body will need to immediately inform the Secretary of any changes to their designated contact person and provide updated details.

2.1.4 Capacity to operate a recognition or registration scheme

The applicant organisation must demonstrate that it has:

1. adequate procedures for monitoring and improving the assessment process carried out under the scheme
2. the financial capacity and facilities to conduct assessments of qualifications and competencies
3. a proven capacity to undertake independent and authoritative assessments in a timely manner.

Reference: Section 55(2)(b).

2.1.5 Financial Capacity

An applicant organisation must demonstrate it has the financial resources, and processes to operate a registration or recognition scheme, including demonstrating that the applicant organisation is financially viable and has the financial capacity and other facilities to register or recognise professional engineers.

The applicant organisation must provide the following most current audited financial statements for assessment including:

1. profit and loss statement
2. cash flow statement
3. balance sheet, and
4. audit report by an independent auditor.

Reference: Section 54(2); clause 52F(4).

2.1.6 Information for NSW Fair Trading public website

An applicant organisation must provide the following information for publication on the NSW Fair Trading public website:

1. Name of the recognised scheme
2. Physical address
3. General enquiry telephone details
4. General enquiry email details
5. Link to recognised scheme documents
6. Classes of professional engineers included in the scheme.

2.1.7 Suitability of applicant body, and applicant body directors and officers

The applicant body must provide a written declaration that the applicant body, and each director and officer of the applicant body, is a suitable person for approval as a recognised engineering body with a scheme, having regard to whether:

1. the applicant (including, a director or officer of the applicant) has within the previous 10 years, been convicted of a relevant offence, being an offence involving fraud or dishonesty, or an offence in relation to failure to comply with a condition of registration, relevant authorisation or equivalent authorisation
2. the applicant (including, a director or officer of the applicant) has, within the previous 10 years, been refused recognition or registration as a professional engineer (or equivalent), or had that recognition or registration suspended or cancelled, in NSW or under the law of another Australian jurisdiction
3. the Independent Commission Against Corruption (or equivalent in other jurisdiction), within the previous 10 years, has made a finding or has been of the opinion that the applicant (including, a director or officer of the applicant) has engaged in corrupt conduct
4. the applicant (including, a director of the applicant or officer of the applicant) is an undischarged bankrupt
5. the applicant is the subject of a winding up order or has had a controller or administrator appointed
6. the applicant is disqualified (other than on the grounds of not residing in that jurisdiction or on the grounds that the applicant is a body corporate) from holding an equivalent authorisation under the law of another Australian jurisdiction
7. a close associate of the applicant who the Secretary considers is not a fit and proper person exercises a significant influence over the applicant or operation and management of the applicant's business.

A recognised engineering body should immediately inform the Secretary if the recognised engineering body or a director or officer ceases to be a suitable person.

A recognised engineering body will need to provide the Secretary with a new declaration whenever a material detail of the suitability declaration is changed, such as the appointment of a director or officer, or identification of a close associate.

Reference: Clause 52B.

2.2 The applicant's registration or recognition scheme

An applicant organisation must provide its scheme document/s, which will be relied on by registered professional engineers, courts, NCAT, and members of the engineering profession. Therefore, a scheme document must be complete, clear, and concise.

A scheme document submitted for consideration must be in a form approved by the Secretary, and including:

- being written in plain English
- a contents page
- consecutively numbered paragraphs, and
- page numbers.

A scheme must not:

- use documents or requirements for a membership scheme the engineering body administers – if an engineering body entity wishes to do this it must reproduce and relabel the documentation/s or requirements for inclusion in its scheme, and
- attach printed copies of pages from the engineering body's website, link or reference pages from that website, or include or attach any documents which are not relevant to the proposed scheme.

Any documents referenced or included in or attached to a proposed scheme form part of that scheme once the engineering body is recognised. Therefore, these documents cannot be changed or amended unless the Secretary approves the variation. Only variations approved by the Secretary may be made to a scheme.

Reference: Clause 50.

2.2.1 The scheme

The applicant organisation's scheme must:

1. adequately provide for the assessment of qualifications and competencies of professional engineers in an area of engineering
2. be consistent with national and international standards for the recognition of professional engineers
3. have fees that are reasonable having regard to the scope of the services being offered
4. include adequate continuing professional development requirements for professional engineers and an effective audit program to ensure continuing registration requirements are met.

Reference: Section 55(2).

2.2.2 Duties of recognised engineering body under the scheme

The applicant organisation's scheme must provide for the engineering body:

1. to act in the public interest in the exercise of the body's recognition function
2. to exercise the body's recognition function independently, fairly and with honesty and integrity
3. if the recognised engineering body operates a membership system for professional engineers in another capacity – to ensure that a person who is not a member of the body is able to apply for recognition of registration as a professional engineer under the scheme in the same way as a member of the body
4. to identify and manage conflicts of interest
5. to ensure that the body remains informed of changes to industry practice and legal requirements
6. to ensure that persons who assess applications under the scheme –
 - (i) are appropriately trained to perform assessments of professional engineers, and
 - (ii) act in accordance with the requirements of the scheme.

Reference: Clause 52D(3); clause 52G.

2.2.3 Recognition or registration scheme processes

An applicant organisation's scheme must provide for the following processes:

1. a process for the receipt, assessment and determinations¹ of applications for recognition or registration of professional engineers under the scheme, including:
 - (i) a process for notifying the Secretary of any applications refused by the recognised engineering body
 - (ii) objective assessment and verification criteria, including the qualifications, experience, knowledge, skills and continuing professional development requirements that an applicant must meet in order to be recognised or registered as a professional engineer under the scheme
 - (iii) a framework setting out the way in which the competence of applicants will be assessed (the Competency pathway) as an alternative to the objective assessment and verification criteria specified above. Alternatively, if an applicant body does not have provision for an applicant seeking an assessment under the competency pathway, it may make provision for an applicant seeking an assessment under the **competency pathway** to be referred to a signatory to the Washington Accord for that assessment
 - (iv) a process for the internal review of decisions made by the recognised engineering body in relation to the receipt, assessment and determination of applications
 - (v) a process for imposing conditions on a professional engineer's recognition or registration
2. a process for the recognition or registration of professional engineers that is fair, transparent, impartial and timely
3. a process for assessing whether a professional engineer is covered by insurance that provides indemnity against liability to which the professional engineer may become subject as a result of carrying out professional engineering work
4. publicly accessible documentation of any fees that the recognised engineering body will charge and the purpose of the fees
5. a process for receiving and managing complaints and resolution of disputes involving professional engineers who are recognised or registered under the scheme
6. a process for taking disciplinary action against professional engineers who are recognised or registered under the scheme, including:
 - (i) the grounds for taking disciplinary action against a recognised or registered professional engineer who fails to comply with the requirements of the scheme
 - (ii) the process for assessing whether or not disciplinary action needs to be taken
 - (iii) the type of disciplinary action that may be taken
 - (iv) a process for the internal review of decisions made by the recognised engineering body in relation to taking disciplinary action
7. a process for notifying the Secretary of:
 - (i) disciplinary action taken against a professional engineer who is recognised or registered under the scheme
 - (ii) the suspension or cancellation of a professional engineer's recognition or registration under the scheme
8. a process for managing actual or perceived conflicts of interest within the recognised engineering body's conflict of interest policy, in carrying out an assessment of an application.

Reference: Clause 54.

¹ In this clause -determination includes a determination made for the purposes of renewing or restoring recognition or registration of a professional engineer under the scheme.

2.2.4 Continuing professional development audit program

An applicant organisation must demonstrate that its scheme provides for an effective continuing professional development audit program that meets the following requirements:

1. the audit program must be conducted at least once each year
2. the audit program must ensure that audits are carried out in relation to the continuing professional development requirements imposed under the scheme, including the records that are required to be kept by professional engineers²
3. an audit under the program must be carried out by an auditor:
 - (i) with appropriate training and experience for the type of audit, and
 - (ii) who does not have a conflict of interest in relation to the audit
4. the program must ensure that an auditor who carries out an audit on behalf of the recognised engineering body makes a written declaration stating that the auditor does not have a conflict of interest, whether actual, perceived or otherwise, in carrying out the audit
5. a professional engineer who is recognised or registered under the scheme must be able to apply for a review of an audit under the program.

Reference: Clause 55(1).

2.2.5 Continuing professional development audit program reporting

An applicant organisation must demonstrate that its scheme provides for the recognised engineering body to give written notice to the Secretary specifying information about the following matters:

1. the results of the audit program for each year ending on 30 June in the form of a written report, including the number of audits carried out, the names of the persons who were audited and the outcomes of the audits, within 3 months after each year ending on 30 June
2. any errors identified under the program after the information in paragraph (1) is first given to the Secretary, within 7 days after the matter first occurring
3. a person refusing to comply with an audit for a period of more than 30 days after first being requested to do so, including the person's name and contact details, within 7 days after the matter first occurring.

Reference: Clause 55(2)&(3).

2.2.6 A public website must be maintained, with a public register

An applicant organisation must demonstrate that its scheme provides for a website to be maintained which is:

1. in a prominent location
2. up to date
3. freely available to members of the public

and that includes the following information:

4. the process for applying to the recognised engineering body to be recognised or registered as a professional engineer under the scheme, including the qualifications, knowledge, skills, experience, insurance and continuing professional development requirements for the application
5. the conditions imposed on professional engineers who are recognised or registered under the scheme
6. the grounds for taking disciplinary action against professional engineers who are recognised or registered under the scheme and the type of disciplinary action that may be taken

² It is a condition of registration as a registered practitioner that the registered practitioner must – (a) keep written records specifying how the registered practitioner has satisfied the registered practitioner's continuing professional development requirements for each year, and (b) maintain the records for at least 5 years, and (c) provide copies of the records to the Secretary if requested by the Secretary in writing.

7. a searchable register of professional engineers who are currently, or were within the last 10 years, recognised or registered under the scheme, including:
 - (i) the dates of registration, renewal and expiry of recognition or registration
 - (ii) the dates of suspension or cancellation of recognition or registration
 - (iii) details of disciplinary action taken against a particular recognised or registered professional engineer
6. information about how a person may make a complaint about a professional engineer who is recognised or registered under the scheme
7. the process that will be followed by the body in relation to receiving and managing complaints and resolution of disputes involving professional engineers who are recognised or registered under the scheme
8. any other information required to be included on the website by the Secretary by written notice given to the body.

Reference: Clause 56.

2.2.7 Insurance requirements for the engineering body and professional engineers

An applicant organisation must demonstrate that its scheme provides for the following insurance requirements:

1. for the recognised engineering body – it must hold an insurance policy that, in the reasonable opinion of the body, provides an adequate level of indemnity for the liability that could be incurred by the body in the course of the body carrying out the recognition function
2. for a professional engineer who is recognised or registered by a recognised engineering body – the professional engineer must satisfy the insurance requirements imposed by the scheme.

Reference: Clause 57.

2.2.8 Record keeping requirements

An applicant organisation must demonstrate that its scheme provides for the keeping of copies of registration records by the recognised engineering body for a minimum of 10 years. The registration records must include:

1. documents relating to the application of persons as professional engineers under the scheme, including documents about the assessment of those persons
2. for each person who is granted recognition or registration as a professional engineer under the scheme, records of the following:
 - (i) conditions imposed by the body on the person
 - (ii) investigations of the person carried out by the body
 - (iii) complaints made about the person or referred to the body about the person
 - (iv) disciplinary action taken by the body against the person
 - (v) audits conducted by the body.
3. a document that sets out each person who has been granted recognition or registration as a professional engineer under the scheme.

Reference: Clause 59.

2.2.9 Transition strategy if recognition of the engineering body is cancelled

An applicant organisation must demonstrate that its scheme provides for a strategy in relation to what is to occur to professional engineers who are recognised or registered under the scheme if the recognised engineering body no longer provides for the recognition or registration of those persons.

Reference: Clause 60.

2.2.10 The transition strategy must include certain matters

An applicant organisation must demonstrate that its scheme includes a strategy in relation to what is to occur to professional engineers who are recognised or registered under the scheme if the recognised engineering body no longer provides for the recognition or registration which addresses the following:

1. how members of the public and professional engineers who are recognised or registered under the scheme will be notified
2. details of any transition period to be provided to professional engineers
3. how fees will be reimbursed to professional engineers, if applicable
4. what is to happen to records and information held by the body that relate to professional engineers.

Reference: Clause 61.

Part 3: Conditions of engineering body recognition

A recognised engineering body is subject to:

1. the standard conditions of recognition outlined in Part 3.1 of this Guideline; and
2. any specific conditions of recognition imposed on the organisation and / or its scheme by the Secretary.

3.1 Standard conditions of engineering body recognition

A recognised engineering body must comply with the standard conditions outlined in the Regulation and summarised in this section.

The Secretary may:

1. impose further conditions of recognition that the Secretary considers appropriate (clause 52H(a));
2. vary or revoke any condition of recognition if the Secretary considers it appropriate to do so (clause 52H(b)), or
3. upon the application of a recognised engineering body, vary a condition (clause 52I).

The Secretary will notify recognised engineering bodies if any standard conditions will be imposed, varied or removed and provide a reasonable time period, at the Secretary's discretion, for those conditions to be implemented.

3.1.1 Conditions on Recognition – General

A recognised engineering body must –

1. exercise its functions in accordance with the scheme
2. act in the public interest
3. upon the written request by the Secretary,
 - (i) provide information to the Secretary relating to the body's function as a recognised engineering body
 - (ii) engage an auditor to conduct an audit of the body's functions
 - (iii) publicise information relating to the body's functions, and
4. provide reasonable assistance to the Secretary in any investigation or audit of the body.

Reference: Clause 52D.

3.1.2 Conditions on recognition – obligations on bodies, directors and officers

A recognised engineering body, or a director or officer of the body, must give the Secretary written notice of the following events within 7 days:

1. proceedings being instituted against the body, a director or an officer
2. a guilty finding against the body, a director or an officer
3. the body becoming bankrupt, the subject of a winding up order or external administration
4. the appointment of a director or person concerned in the management of the body
5. a person ceasing to be a director or person concerned in the management of the body
6. the body no longer holding insurance under clause 57, or
7. a change to the persons nominated in the body's application for recognition

Reference: Clause 52E.

3.1.3 Conditions on recognition – compliance requirements

A recognised engineering body must, for the duration of the organisation's recognition -

1. be a registered company under the *Corporations Act 2001 (Cth)* or an incorporated association under the *Associations Incorporation Act 2009*
2. have adequate insurance under clause 57
3. have the financial capacity and other resources and facilities to operate its scheme
4. make its application and renewal process public for recognition or registration under its scheme
5. comply with any law relevant to the exercise of the body's functions, and
6. provide an annual scheme declaration by 30 September that includes information and evidence relating to the exercise of the body's functions requested by the Secretary
7. provide for and undertake an annual review of the competency pathway throughout the first five-year term of the operation of the assessment scheme.

Reference: Clause 52F.

3.1.4 Conditions on recognition – independence and fairness

A recognised engineering body, its directors and officers must –

1. exercise the body's recognition function independently, fairly and with honesty and integrity
2. have in place a conflict of interest policy
3. ensure that members of the body and non-members are treated in the same way in terms of recognition or registration as a professional engineer
4. ensure that the scheme is updated in accordance with industry practice and legal requirements, and
5. ensure that persons who assess applications for recognition or registration are properly trained and act in accordance with the scheme.

Reference: Clause 52G.

3.2 Specific conditions of engineering body recognition

The Secretary may, in addition to the standard conditions of recognition, impose specific conditions on a recognised engineering body, and its scheme, or vary, suspend or cancel such a condition.

Reference: Clause 52H.

3.3 Applications for variation of conditions

A recognised engineering body may, in the form, and accompanied by the fee, approved by the Secretary, apply for the variation of a condition on the body's recognition.

Reference: Clause 52I.

Part 4: Coregulatory supervision of a recognised engineering body

4.1 Fees

The Secretary will require that applications to be accompanied by a relevant fee to process the application for:

1. Recognition as an engineering body, operating a scheme
2. Revocation or variation of the engineering body recognition, or recognition conditions
3. Variations to the recognised engineering body's scheme
4. Renewal of the engineering body recognition.

Any requests for a refund of all or part of a fee will be considered on a case-by-case basis.

4.2 Standard and specific conditions of scheme recognition

The Secretary may impose:

1. standard conditions of recognition on all recognised engineering bodies; and/ or
2. specific conditions of recognition on a recognised engineering body and / or its recognised scheme.

4.3 Investigate organisations with recognised schemes

The Secretary may investigate a recognised engineering body(s):

1. to determine whether the organisation is complying with the standard conditions of recognition (summarised in Part 3.1 of this Guideline) and any specific conditions of recognition
2. if the Secretary is of the opinion that it is in the public interest to do so
3. in any other circumstance that the Secretary considers necessary
4. the body must provide reasonable assistance to the Secretary in the conduct of an investigation or audit of the body.

Reference: Part 7 of the Act; Clause 52D(4)&(6).

4.4 Request information from recognised engineering bodies

The Secretary may request any information that the Secretary reasonably requires about the functions of the body as a professional body of engineers.

Reference: Part 7 of the Act; Clause 52D(4).

4.5 Suspending or cancelling an engineering body recognition

The Secretary may suspend or cancel an engineering body recognition if:

1. the recognised engineering body or its scheme, no longer satisfies the requirements of section 55 of the Act
2. the body is no longer exercising the functions of a professional engineering body
3. the body or a director or officer of the body has contravened a requirement imposed by or under the Act
4. the body is no longer a suitable person to be approved to exercise the functions of a recognised engineering body
5. the body should not have been granted recognition due to a material omission of information in the recognition application
6. the body was recognised because of a materially false or misleading representation or declaration by the organisation
7. the body was recognised in error
8. the organisation ceases trading
9. the organisation becomes insolvent
10. it is in the public interest to do so
11. the body applies for suspension or cancellation of recognition.

If the Secretary is of the opinion that a ground exists for suspending or cancelling the recognition of an engineering body, the Secretary may serve a notice in writing on the organisation, inviting the organisation to show cause as to why its recognition should not be suspended or cancelled. The notice must state the grounds on which the organisation is required to show cause and specify the period during which it must be done). The Secretary must consider any written submissions made before finalising its decision. The organisation must be notified in writing of the Secretary's decision including the date or time from which suspension or cancellation takes effect, and the reasons for suspension or cancellation.

If the Secretary decides to suspend or cancel the engineering body recognition, the organisation must not accept any further applications or renewals from the suspension or cancellation date stated in the notice.

The organisation must implement its strategy for managing the transition of recognition or registration holders currently registered under the scheme. Any recognition or registration granted prior to the date of suspension or cancellation will continue to have effect according to its terms, unless the Secretary determines, at her discretion, that it is not in the public interest for the recognition or registration to continue.

Reference: Clause 53.

4.6 Notice of voluntary suspension or cancellation of an engineering body's recognition

A recognised engineering body must give the Secretary at least 180 days' written notice of its intention to voluntarily suspend or cancel its recognition.

The organisation will need to implement its strategy for managing the transition of recognition or registration holders that were registered under the recognised scheme. Any recognition or registration granted prior to the date of voluntary revocation will continue to have effect according to its terms, unless in the opinion of the Secretary it is not in the public interest for the recognition or registration to continue.

Reference: Clause 53(2A) of the Regulation.

4.7 Warning notices

The Secretary may authorise publication of a notice warning persons of particular risks involved in dealing with a recognised engineering body in its role as a recogniser or register of professional engineers.

The Secretary must conduct an investigation prior to publishing a warning notice, whether or not a complaint has been made.

Reference: Section 99.

4.8 Secretary's involvement in complaints

4.8.1 Complaints about a professional engineer

The recognised engineering body is responsible for handling complaints about its recognition or registration holders.

A complainant should attempt to resolve the issue directly with the recognition or registration holder or recognised engineering body in line with the recognised engineering body's documented complaints handling and dispute resolution process.

4.8.2 Complaints about a recognised engineering body (REB)

A complaint may be made to the Secretary or the REB about a recognised engineering body that relates to its scheme; or the recognised engineering body in its capacity as a scheme operator.

If a complaint is made to the REB:

1. The REB must advise the Secretary in writing within 14 days as to the nature of the complaint.
2. The Secretary will assess the nature of the complaint and advise the REB as to whether or not the REB is to investigate the matter themselves or if the Secretary will investigate the allegation.
3. If the REB is advised to investigate the allegation they must provide regular updates as to the progress of the investigation and once finalised report back to the Secretary as to the outcome of the investigation.

If a complaint is made directly to the Secretary, the Secretary will access the complaint and may do either or both of the following in deciding whether to take action:

- conduct an investigation, or;
- refer the matter back to the REB advising them to investigate the allegation and report back to the Secretary as to the outcome.

The complainant and recognised engineering body will be notified in writing as to the outcome of the complaint handling process.

4.9 Penalties

The Secretary may institute proceedings for the imposition of penalties on a relevant person and / or organisation if:

1. an applicant organisation or recognised engineering body supplies false or misleading information to the Secretary;
2. the body or its directors or officers breach one of the requirements imposed under the Act.

Part 5: Review of a decision of the secretary

5.1 Internal review

A person may apply for an internal review of a decision to:

1. refuse an application for recognition of an engineering body
2. impose specific conditions on the recognition of a recognised engineering body and / or its scheme
3. suspend or revoke the recognition of a recognised engineering body.

The Secretary will assess the application for review and make a determination and notify the applicant in writing of the decision.

An internal review is not to be done by the person who made the original decision and is not to be done by a person who is less senior than the person who made the original decision.

5.2 New South Wales Civil and Administrative Tribunal review

The Act provides for a person to apply to the New South Wales Civil and Administrative Tribunal for an administrative review under the Administrative Decisions Review Act 1997 of the following decisions of the Secretary:

1. to refuse an application for recognition of a professional body of engineers
2. to impose or vary a specific condition on the recognition of a recognised engineering body
3. to suspend or cancel the recognition of a recognised engineering body.

Reference: Section 55A.

Part 6: Classes of registration of professional engineer

For the purposes of section 42 of the Act, the following classes of registration as a professional engineer are prescribed:

- (a) professional engineer – civil
- (b) professional engineer – electrical
- (c) professional engineer – fire safety
- (d) professional engineer – geotechnical
- (e) professional engineer – mechanical
- (f) professional engineer – structural.

Part 7: Glossary

In this Guideline, unless otherwise indicated, terms have the same meaning as those used in the Act and the Regulation. ‘**section**’ refers to a section of the Act and ‘**clause**’ refers to a clause of the Regulation.

applicant organisation means a company registered under the *Corporations Act 2001* (Cth) or an association registered under the *Associations Incorporation Act 2009* that has submitted an application to the Secretary seeking recognition as a recognised engineering body operating a scheme for Professional Engineers.

classes of registration as professional engineer - for the purposes of section 42 of the Act, the following classes of registration as a professional engineer are prescribed –

- (a) professional engineer – civil
- (b) professional engineer – electrical
- (c) professional engineer – fire safety
- (d) professional engineer – geotechnical
- (e) professional engineer – mechanical
- (f) professional engineer – structural.

code of practice means the code of practice for professional engineers found in Schedule 4 Part 2 Division 2 of the Regulation.

Department means the Department of Customer Service.

guidelines means guidelines issued by the Secretary and made publicly available on a website of the Department.

NCAT means the New South Wales Civil and Administrative Tribunal

professional engineer means a person who carries out professional engineering work in a prescribed area of engineering within the meaning of section 32 of the Act.

professional engineering work – see section 31 of the Act.

recognition or registration scheme means a scheme that is operated by a recognised engineering body that sets out the requirements an individual must meet to hold recognition or registration under that scheme, see Part 5 and clause 48(1)(b) of the Regulation.

recognised engineering body means a recognised engineering body for the time being recognised by the Secretary as a recognised engineering body.

registered practitioner means a registered design practitioner, registered principal design practitioner, registered professional engineer, registered specialist practitioner or a registered building practitioner.

registered professional engineer means a person who is registered as a professional engineer under this Act or recognised as a professional engineer under the Act.

registration means registration as a registered practitioner and includes recognition as a practitioner under the Act.

the Act means the *Design and Building Practitioners Act 2020*.

the Regulation means the *Design and Building Practitioners Regulation 2021*.