

Professional Engineers (Code of Practice) Amendment Regulation 2021

Explanatory notes for Subordinate Legislation 2021 No.159

made under the

Professional Engineers Act 2002

General Outline

Short title

Professional Engineers (Code of Practice) Amendment Regulation 2021

Authorising law

Sections 108 and 144 of the *Professional Engineers Act 2002* (the Act)

Policy objectives and the reasons for them

Section 108 of the Act provides that the Board of Professional Engineers of Queensland (Board) is responsible for making or amending a Code of Practice.

The purpose of the Code of Practice is to provide guidance to Registered Professional Engineers of Queensland (RPEQs) as to appropriate professional conduct or practice. It may also be used as evidence in disciplinary proceedings. The Code of Practice is a statutory instrument within the meaning of the *Statutory Instruments Act 1992* (SI Act)

A Code of Practice has no effect until approved under a regulation. The *Professional Engineers Regulation 2019* (Regulation) approved the current Code of Practice made by the Board on 29 November 2013. The Code of Practice must also be reviewed at least once every three years. No change was required following the last review in 2017.

In 2020, the Board reviewed the Code of Practice and consulted with key stakeholders. As a result, key changes are proposed including improving readability, strengthening existing principles and addressing responsibility for RPEQs to maintain appropriate professional indemnity insurance. The intent is to ensure appropriate guidance continues to be provided to RPEQs as to appropriate professional conduct or practice and the public can continue to have confidence in the standard of services provided by RPEQs.

Following consultation, the Board made an amended Code of Practice on 4 August 2020.

Achievement of policy objectives

The *Professional Engineers (Code of Practice) Amendment Regulation 2021* (Amendment Regulation) approves the amended Code of Practice made by the Board on 4 August 2020. The amended Code of Practice will provide greater clarity to RPEQs and the public about the standards expected of an RPEQ.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the objectives of the authorising Act.

Inconsistency with policy objectives of other legislation

There are no inconsistencies with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

The policy objectives can only be achieved by making the Amendment Regulation.

Benefits and costs of implementation

Making an updated Code of Practice will assist RPEQs in ensuring they are practising in a professional and competent way and maintaining a high standard of professional conduct. It will also provide greater certainty about the standards expected of an RPEQ.

No additional costs are expected in implementing the Amendment Regulation.

Consistency with fundamental legislative principles

The issue of whether delegated legislative power has sufficient regard to the institution of Parliament may arise when the power to regulate an activity is provided in an external document such as a code of practice or guideline that is not subordinate legislation and therefore arguably not subject to Parliamentary scrutiny.

Section 4 of the *Legislative Standards Act 1992* outlines the meaning of fundamental legislative principles and provides examples to guide whether subordinate legislation has sufficient regard to the institution of Parliament. This includes: if it is within the power that, under an Act or subordinate legislation, allows the subordinate legislation to be made; amends statutory instruments only; and allows sub-delegation of a power delegated by an Act in appropriate cases, to appropriate persons and if authorised by an Act.

In relation to the Amendment Regulation, section 108 of the Act clearly authorises the approving of a Code of Practice under regulation. This section also clarifies that the Code of Practice is a statutory instrument within the meaning of the SI Act. The Act requires the Board to review the Code of Practice at least every three years and outlines certain consultation requirements to ensure the Code of Practice remains relevant and effective. The amended Code of Practice and regulation making the amended Code of Practice are also subject to scrutiny through relevant government approval processes.

Section 109 of the Act requires the responsible Minister to table a copy of the Code of Practice, or amended Code of Practice, in the Legislative Assembly within 14 sitting days after the regulation is notified. This ensures there is an opportunity for Parliament and the relevant Parliamentary Committee to review the Code of Practice.

It is considered that the Amendment Regulation is within power, has sufficient regard to the rights and liberties of individuals and the institution of Parliament, and is consistent with fundamental legislative principles.

Consultation

The Board consulted with several key stakeholders in developing the amended Code of Practice including:

- all entities assessing the qualifications of engineers under Part 6A of the Act
- all Queensland universities with prescribed schools of engineering
- the Queensland Public Service Commission
- relevant Queensland Government departments.

Responses indicated general support for the amended Code of Practice, with feedback included where appropriate.

The Office of Best Practice Regulation was consulted and advised that no further regulatory impact assessment is required under the Queensland Government Guide to Better Regulation as the amendments appear unlikely to result in significant adverse impacts.