

Version  
as at 28 October 2021



## Standards and Accreditation Act 2015

Public Act      2015 No 91  
Date of assent    20 October 2015  
Commencement    see section 2

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#### Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

**This Act is administered by the Ministry of Business, Innovation, and Employment.**

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Standards and Accreditation Act 2015.

**2 Commencement**

- (1) The following provisions come into force on the day after the date on which this Act receives the Royal assent:
  - (a) subparts 1 and 3 of Part 1; and
  - (b) sections 41, 43(2), 45(2), and 46(2).
- (2) The remainder of this Act comes into force on a date appointed by the Governor-General by Order in Council.
- (3) Any provision of this Act that is not already in force on the day that is 6 months after the date on which this Act receives the Royal assent comes into force on that date.
- (4) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

Section 2(2): the remainder of this Act brought into force, on 1 March 2016, by clause 2 of the Standards and Accreditation Act Commencement Order 2015 (LI 2015/312).

Section 2(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## Part 1

### Preliminary and key provisions

#### Subpart 1—Preliminary provisions

### 3 Purpose

The purpose of this Act is to—

- (a) make provision for standards and conformity assessment systems in New Zealand that—
  - (i) are consistent with international practice; and
  - (ii) facilitate trade; and
  - (iii) protect the health, safety, and well-being of individuals:
- (b) provide for the development, approval, and maintenance of New Zealand Standards:
- (c) make provision for access to New Zealand Standards:
- (d) designate an official known as the NZ Standards Executive to be responsible for the oversight of New Zealand Standards:
- (e) establish the New Zealand Standards Approval Board:
- (f) continue the Testing Laboratory Registration Council and rename it the Accreditation Council:
- (g) provide for accreditation of conformity assessment bodies:
- (h) repeal the Standards Act 1988 and the Testing Laboratory Registration Act 1972.

### 4 Interpretation

- (1) In this Act, unless the context otherwise requires,—

**accreditation** means formal recognition by the Accreditation Council of a testing laboratory's or an inspection body's competence to carry out testing or

inspection services after evaluation of that competence against requirements set by the Accreditation Council

**Accreditation Council** means the Accreditation Council continued under section 33

**Board** means the New Zealand Standards Approval Board established under section 11

**chief executive** means the chief executive of the Ministry

**conformity assessment bodies** includes testing laboratories, inspection bodies, and certification bodies

**consensus** means—

- (a) unanimity; or
- (b) general agreement characterised by the absence of sustained opposition on any substantial issue

**goods** includes products, substances, or things of any kind

**Minister** means the Minister of the Crown for the time being responsible for the administration of this Act

**Ministry** means the department of State that, with the authority of the Prime Minister, is responsible for the administration of this Act

**New Zealand Standard**—

- (a) means a standard developed or adopted, and approved as a New Zealand Standard, under this Act; and
- (b) includes a standard that was promulgated by the Standards Council as a New Zealand Standard or a standard specification under the Standards Act 1965 or the Standards Act 1988

**NZ Standards Executive** means the individual appointed as the NZ Standards Executive under section 6

**NZ Standards Organisation** means collectively the NZ Standards Executive and the Board

**services** includes rights, benefits, privileges, or facilities of any kind

**standard**—

- (a) means a specification relating to goods, services, processes, or practices approved or adopted by a standards organisation; and
- (b) includes modifications to any such specification

**Standards Council** means the Standards Council that was continued under section 3 of the Standards Act 1988 and is disestablished under section 42 of this Act

**standards development committee** means a committee established by the NZ Standards Executive under section 15

**standards organisation** means—

- (a) the NZ Standards Organisation;
  - (b) an international, national, or regional organisation with functions similar to the NZ Standards Organisation.
- (2) For the purposes of this Act, unless the context otherwise requires,—
- (a) a person is **personally interested** in a matter if he or she—
    - (i) may derive a financial benefit from the matter; or
    - (ii) is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter; or
    - (iii) may have a financial interest in a person to whom the matter relates; or
    - (iv) is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the matter relates; or
    - (v) has some other (direct or indirect) personal interest that could materially influence him or her, or would reasonably appear to any person to be likely to have a material influence on him or her, in the exercise of his or her responsibilities under this Act in relation to the matter; but
  - (b) a person is not personally interested in a matter—
    - (i) merely because he or she receives insurance cover, remuneration, or other benefits authorised under this Act; or
    - (ii) only because he or she has past or current involvement in the relevant sector, industry, or practice; or
    - (iii) if his or her personal interest is the same or substantially the same as—
      - (A) the benefit or interest of most other people in the industry that he or she represents; or
      - (B) the benefit or interest of the general public.

## 5 Act binds the Crown

This Act binds the Crown.

### Subpart 2—New Zealand Standards

#### *NZ Standards Executive*

## 6 Appointment of NZ Standards Executive

The chief executive must appoint a suitable employee of the Ministry to be the NZ Standards Executive.

## 7 Functions of NZ Standards Executive

- (1) The functions of the NZ Standards Executive are—
- (a) to assume responsibility for New Zealand membership of international standards organisations, including the International Organization for Standardization and the International Electrotechnical Commission:
  - (b) to ensure New Zealand attendance and representation at meetings of international standards organisations:
  - (c) to co-operate and engage with standards organisations and other standards bodies on standards development and other standards-related matters:
  - (d) to ensure the exercise and performance of Crown rights and obligations in respect of standards (including rights and obligations in relation to or arising from intellectual property in standards):
  - (e) to establish and maintain a work programme for the development, maintenance, and review of New Zealand Standards:
  - (f) to make arrangements for public access to the New Zealand Standards work programme:
  - (g) to manage the processes for—
    - (i) the formation of standards development committees:
    - (ii) the development of draft standards:
    - (iii) the review and revision of existing standards:
  - (h) to enter into arrangements to develop New Zealand Standards:
  - (i) to refer the following to the Board:
    - (i) proposals for membership of standards development committees:
    - (ii) draft standards:
    - (iii) proposals to amend, withdraw, or archive standards:
    - (iv) proposals to adopt standards developed by other standards organisations:
    - (v) proposals to adopt specifications relating to goods, services, processes, or practices approved by an organisation other than a standards organisation:
  - (j) to make arrangements for public access to standards (including archived and withdrawn standards):
  - (k) to report to the Minister from time to time (but not less than once annually) on standards, the standards work programme, and current and emerging trends in standards:
  - (l) to advise relevant Ministers of proposals to amend, revise, archive, or replace standards that are cited in legislation:

- (m) to set fees for obtaining copies of (including online access to) New Zealand Standards and other standards publications:
  - (n) to establish and maintain an interests register for the purposes of sections 17(4) and 19:
  - (o) to perform any other functions conferred under this Act or any other enactment.
- (2) In performing the functions referred to in subsection (1)(a) to (n), the NZ Standards Executive must—
- (a) act independently; and
  - (b) have regard to—
    - (i) the value of standards:
    - (ii) the legitimate use of standards:
    - (iii) the importance of maintaining expert input into the standards development process.
- (3) In performing the functions referred to in subsection (1)(o), the NZ Standards Executive must act under the direction of the Minister and the chief executive.

## **8 NZ Standards Executive may delegate powers, etc**

- (1) The NZ Standards Executive may delegate to any employee of the Ministry any of his or her powers, or the performance of his or her functions or duties, under this Act or any other enactment.
- (2) A delegation under subsection (1)—
- (a) must be in writing; and
  - (b) may be made subject to any conditions or restrictions that the NZ Standards Executive thinks appropriate; and
  - (c) may be made generally or in any particular case; and
  - (d) is revocable at will; and
  - (e) does not affect or prevent the exercise of any power or the performance of any function or duty by the NZ Standards Executive; and
  - (f) does not affect the responsibility of the NZ Standards Executive for the actions of any person acting under a delegation; and
  - (g) continues according to its tenor despite any change in the person holding office as the NZ Standards Executive.

Compare: 2011 No 4 s 72

## **9 Powers of delegate**

- (1) A person who is delegated any powers, or the performance of any functions or duties, under section 8—



- (a) may, with the prior written approval of the NZ Standards Executive, delegate those powers to any other employee of the Ministry:
  - (b) may, subject to any conditions or restrictions, exercise those powers, or perform those functions or duties, in the same manner and with the same effect as if they had been conferred on that person directly by this Act and not by delegation.
- (2) Every person purporting to act under any delegation under section 8 is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

Compare: 2011 No 4 s 73

#### **10 NZ Standards Executive must advise responsible Ministers before review of standards cited in legislation**

- (1) If any New Zealand Standard is cited or incorporated by reference in any legislation, the NZ Standards Executive must advise the responsible Minister of every proposal to amend, revise, revoke, or replace the standard before the proposal is referred to the Board for consideration.
- (2) In subsection (1), **responsible Minister**, in relation to legislation, means the Minister of the Crown for the time being responsible for the administration of that legislation.

Section 10(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 10(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

#### *New Zealand Standards Approval Board*

#### **11 Establishment of New Zealand Standards Approval Board**

- (1) This section establishes the New Zealand Standards Approval Board.
- (2) The Board consists of 5 to 7 members appointed by the Minister under section 14.

#### **12 Functions of Board**

- (1) The functions of the Board are to—
  - (a) approve or decline proposals for persons to be members of standards development committees:
  - (b) approve or decline proposals for persons to be chairpersons of standards development committees:
  - (c) approve or decline proposals for persons to be members of development committees of other standards organisations:
  - (d) approve or decline proposed new New Zealand Standards:

- (e) adopt or decline to adopt other standards organisations' standards as New Zealand Standards:
  - (f) approve or decline modifications to New Zealand Standards:
  - (g) archive New Zealand Standards:
  - (h) revoke New Zealand Standards:
  - (i) advise the Minister on any matter referred to the Board by the Minister:
  - (j) advise the Minister on the currency of New Zealand Standards, and on priority areas for the development and review of New Zealand Standards:
  - (k) advise the Minister on any other matter that the Board considers necessary or advisable.
- (2) The Board must act independently in undertaking its functions under subsection (1).
- (3) If the Board declines to approve members, standards, or modification of standards under subsection (1)(a) to (f), it must provide the NZ Standards Executive with reasons in writing for its decision.

### **13 Considerations for Board**

- (1) In undertaking its functions under section 12(1)(a), the Board must—
- (a) have regard to the importance of ensuring that members of a standards development committee constitute a balanced representation of the stakeholder interests relevant to the proposed draft standard; and
  - (b) ensure that each member of the standards development committee has—
    - (i) skills, knowledge, and experience relevant to the standard to be developed or considered; or
    - (ii) knowledge and experience of the sector or sectors most likely to use the standard.
- (2) In undertaking its functions under section 12(1)(b), the Board must consider whether—
- (a) the person is capable of performing the functions set out in section 18(2):
  - (b) the person has experience that demonstrates—
    - (i) leadership skills:
    - (ii) an ability to build consensus and promote effective working relationships:
    - (iii) good judgment:
    - (iv) an understanding and appreciation of the need for, and value of, diversity.

- (3) In undertaking its functions under section 12(1)(c), the Board must ensure that each person has—
  - (a) skills, knowledge, and experience relevant to the standard to be developed or considered; or
  - (b) knowledge and experience of the sector or sectors most likely to use the standard.
- (4) In undertaking its functions under section 12(1)(d), (e), and (f), the Board must—
  - (a) have regard to the following:
    - (i) whether the proposed standard or modification has been developed using a consensus process, whether that process included public consultation, and whether due weight was given to the submissions received; and
    - (ii) whether the proposed standard or modification is based (in whole or in part) on any other national or international standard or any draft standard; and
    - (iii) whether the proposed standard is, or the standard as amended by the modification would be, compatible with other national or international standards; and
    - (iv) whether the proposed standard or modification would meet an identified industry, consumer, or regulatory need; and
    - (v) whether the overall expected benefit of the standard or the standard as amended, to the sector or sectors most likely to use the standard or to New Zealand as a whole, can be demonstrated; and
  - (b) ensure that—
    - (i) New Zealand Standards do not unnecessarily duplicate the standards development work of other national or international standards organisations; and
    - (ii) where a proposed New Zealand Standard is based on an international standard, there are good reasons for any differences between the New Zealand Standard and the international standard; and
    - (iii) the proposed standard or modification will not create unnecessary obstacles to international trade and investment.
- (5) In undertaking its functions under section 12(1)(i), (j), and (k), the Board must have regard to—
  - (a) the value of standards; and
  - (b) the legitimate use of standards; and

- (c) the importance of maintaining expert input into the standards development process.

#### **14 Further provisions relating to Board**

The provisions of Schedule 1 apply to the Board.

##### *Standards development committees*

#### **15 Standards development committees**

- (1) The NZ Standards Executive must establish 1 or more standards development committees to—
  - (a) draft new standards:
  - (b) review existing standards:
  - (c) consider the suitability for adoption as New Zealand Standards of standards developed by other standards organisations or bodies:
  - (d) advise on the content of standards:
  - (e) consider and propose amendments to existing standards.
- (2) The NZ Standards Executive must—
  - (a) determine the number of standards development committees that are necessary:
  - (b) determine what work will be carried out by each standards development committee:
  - (c) appoint members of each standards development committee (in accordance with section 16).

#### **16 Membership of standards development committees**

- (1) The NZ Standards Executive must—
  - (a) propose persons<sup>1</sup> to be members of each standards development committee:
  - (b) propose one of the members (or proposed members) of a standards development committee to be the chairperson of the committee.
- (2) The NZ Standards Executive must refer proposals for persons to be members or chairpersons of standards development committees to the Board.
- (3) If the NZ Standards Executive refers a proposal for a person to be a member, or a chairperson, of a standards development committee to the Board, the Board must—

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<sup>1</sup> For example, representatives from industry bodies, consumer groups, NGOs, and State sector agencies, experts from the relevant sector, academics, and other suitable persons.

- (a) approve the proposal; or
  - (b) decline the proposal with reasons.
- (4) The NZ Standards Executive may—
- (a) appoint any person to be a member of a standards development committee whose membership has been approved by the Board:
  - (b) appoint any member to be the chairperson of a standards development committee whose appointment as chairperson has been approved by the Board.
- (5) The NZ Standards Executive must not appoint any person to be chairperson of a standards development committee who is personally interested in the work of that committee.

### **17 Requirements for proposing person to be member**

- (1) Before a person is proposed as a member of a standards development committee under section 16, the person must—
- (a) consent in writing to being a member; and
  - (b) disclose to the NZ Standards Executive the nature and extent (including the monetary value, if quantifiable) of any interests that the person has at that time, or is likely to have, in matters relating to the work of the (proposed) standards development committee.
- (2) The NZ Standards Executive must advise the Board of the nature and extent of any interests disclosed under subsection (1)(b) or section 19 when referring a membership proposal to the Board.
- (3) The Board must have regard to the nature and extent of the interests when approving or declining a proposal under section 16(3).
- (4) If the person is appointed to be a member of a standards development committee, the NZ Standards Executive must ensure that details of the nature and extent of any interests (including any monetary value of the interests) are—
- (a) disclosed to the chairperson of the committee; and
  - (b) recorded in an interests register kept by the NZ Standards Executive.

### **18 Chairpersons of standards development committees**

- (1) The NZ Standards Executive must appoint a chairperson for every standards development committee.
- (2) The functions of a chairperson are to—
- (a) ensure the efficient management of committee meetings and the work of the committee:
  - (b) ensure the efficient development of the relevant standard:
  - (c) ensure fair and equal treatment of all members of the committee:

- (d) facilitate discussion, and the sharing of ideas, amongst committee members:
  - (e) manage, in consultation with the NZ Standards Executive, conflicts of interest in relation to members of the standards development committee.
- (3) If the chairperson is absent from a meeting of a standards development committee, the members present must appoint one of their number to chair the meeting.
- (4) A person who is personally interested in the work of a standards development committee is disqualified from being, or acting as, the chairperson of the committee.

### **19 Continuing duty to disclose conflicts of interest**

A member of a standards development committee who is personally interested in a matter relating to the work of that committee must, as soon as practicable after he or she becomes aware of any interest, disclose details of the nature and extent (including any monetary value, if quantifiable) of the interests to—

- (a) the chairperson of the committee; and
- (b) the NZ Standards Executive, who must record it in the interests register.

### **20 Obligation to disclose interest**

- (1) The Board and the NZ Standards Executive must notify the Minister of any failure to comply with section 17(4) or 19, and of the acts or matters affected by that failure, as soon as practicable after becoming aware of the failure.
- (2) Except as provided in subsection (3), a failure to comply with section 17(4) or 19 does not affect the validity of any act or matter.
- (3) Subsection (2) does not limit the right of any person to apply for judicial review.

### **21 Duty not to disclose information**

A member of a standards development committee who has information in his or her capacity as a member that would not otherwise be available to him or her may not disclose that information to any person, or make use of, or act on, that information, except—

- (a) in the performance of the committee's functions; or
- (b) as required or permitted by law; or
- (c) in complying with the requirement for members to disclose interests; or
- (d) if the member is first authorised to do so by the NZ Standards Executive or the Minister and the disclosure, use, or action will not, or would be unlikely to, prejudice the standards development process.

## **22 Standards development committees' work product and working materials**

A member of a standards development committee must, at the direction of the NZ Standards Executive, surrender any information prepared or collected by that member or any other member as part of the committee's responsibilities or activities.

## **23 Liability of members**

- (1) A member of a standards development committee is not liable for the work of the committee by reason only of being a member of that committee.
- (2) A member of a standards development committee is not liable in respect of an act or omission by the member in good faith and in the performance or intended performance of the committee's functions under this Act or any other enactment.
- (3) Nothing in subsection (2) affects—
  - (a) the liability of any person that is not a civil liability:
  - (b) the right of any person to apply for judicial review.

## **24 Insurance for liability of member**

- (1) The NZ Standards Executive may effect insurance cover for a member of a standards development committee in relation to his or her acts or omissions, except an act done or omission made that is—
  - (a) in bad faith:
  - (b) not in the performance or intended performance of the committee's functions.
- (2) In this section, to **effect insurance** includes to pay, whether directly or indirectly, the costs of the insurance.

### *Membership of other development committees*

## **25 Membership of other development committees**

- (1) The NZ Standards Executive may—
  - (a) propose any person to be a member of a development committee of a standards organisation other than the NZ Standards Organisation; and
  - (b) refer that proposal to the Board for approval.
- (2) If the NZ Standards Executive refers a proposal to the Board under subsection (1), the Board must—
  - (a) approve the proposal; or
  - (b) decline the proposal with reasons.
- (3) The NZ Standards Executive may recommend any person to be a member of a development committee of a standards organisation other than the NZ Standards Organisation whose membership has been approved by the Board.

*Fees for New Zealand Standards and cost recovery***26 Setting fees for standards**

- (1) The NZ Standards Executive may set a scale of fees payable for obtaining copies of, or online access to, New Zealand Standards and other standards publications.
- (2) The NZ Standards Executive may set fees to recover costs associated with—
  - (a) developing, approving, maintaining, and providing access to New Zealand Standards and other standards-related publications;
  - (b) maintaining linkages with other standards organisations;
  - (c) responding to inquiries about New Zealand Standards.
- (3) The fees set by the NZ Standards Executive under subsection (1) may reflect—
  - (a) the commercial arrangements entered into by the NZ Standards Executive with third parties (for example, royalties and licence fees payable in respect of intellectual property incorporated in New Zealand Standards); and
  - (b) any arrangements made under section 27; and
  - (c) a balance between the upfront costs of developing and approving a New Zealand Standard and any projected future cost recovery (for example, through the provision of access to New Zealand Standards).

**27 Cost arrangements for developing standards**

- (1) The NZ Standards Executive may, if he or she considers it appropriate, enter into arrangements with any person to—
  - (a) develop a New Zealand Standard; and
  - (b) recover the costs associated with developing, approving, maintaining, and providing access to that standard.
- (2) Any charges set by the NZ Standards Executive under subsection (1)(b) may reflect—
  - (a) the commercial arrangements entered into with third parties by the NZ Standards Executive (for example, royalties and licence fees payable in respect of intellectual property incorporated in New Zealand Standards); and
  - (b) a balance between the upfront costs of developing and approving a New Zealand Standard and projected future cost recovery (for example, through the provision of access to New Zealand Standards); and
  - (c) the projected costs of maintaining New Zealand Standards.



## 28 Principles of cost recovery

In setting the amount of fees or charges under sections 26 and 27, the NZ Standards Executive must have regard to the following principles:

### *Equity*

- (a) costs should, to the extent practicable, be recovered from the users or beneficiaries of the New Zealand Standard or group of New Zealand Standards at a level commensurate with their use of or benefit from the New Zealand Standard or group of New Zealand Standards:

### *Efficiency*

- (b) costs should generally be allocated and recovered in order to ensure that maximum benefits are delivered at minimum cost:

### *Justification*

- (c) costs should be collected only to meet the actual and reasonable costs (including indirect costs) associated with New Zealand Standards development, approval, maintenance, and access:

### *Transparency*

- (d) costs should be identified and allocated as closely as practicable in relation to the tangible value for the sector or sectors to which the New Zealand Standard or group of New Zealand Standards applies:

### *Flexibility*

- (e) the method determined by the NZ Standards Executive for recovering costs for New Zealand Standards development, approval, maintenance, and access should be adaptable to changes and variations in the market for New Zealand Standards and be consistent with the overarching objectives for New Zealand Standards.

### *New Zealand Standards and other legislation*

Heading: amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## 29 Citation of New Zealand Standards

- (1) A New Zealand Standard may be cited in any legislation by the title and number given to it by the NZ Standards Executive.
- (2) If a New Zealand Standard is cited in legislation by the title and number given to it by the NZ Standards Executive, that citation must, unless the context otherwise requires, be deemed to include and refer to the latest New Zealand Standard with that citation, together with any modifications to it, promulgated before the legislation in which it is cited was passed or made.

Compare: 1988 No 5 s 23

Section 29(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 29(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### **30 Secondary legislation may be made by referring to or incorporating New Zealand Standards**

- (1) Secondary legislation may be made by referring (with or without modification) to any New Zealand Standard relating to goods, services, processes, or practices of any kind.
- (2) Secondary legislation may, subject to any copyright, be made by incorporating in whole or in part (and with or without modification) any New Zealand Standard relating to goods, services, processes, or practices of any kind.

Compare: 1965 No 59 ss 26, 27; 1988 No 5 s 22

Section 30 heading: amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 30(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 30(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### **31 References to New Zealand Standards in other legislation**

A reference in any legislation (other than this Act) to a standard, standard specification, or New Zealand Standard made under this Act, the Standards Act 1988, or the Standards Act 1965 is deemed to be a reference to a New Zealand Standard within the meaning of this Act.

Compare: 1988 No 5 s 24

Section 31 heading: amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 31: amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### *Proof of New Zealand Standards*

### **32 Proof of New Zealand Standards**

- (1) The fact that any standard has been approved or adopted in accordance with this Act and promulgated as a New Zealand Standard is, in the absence of proof to the contrary, sufficient evidence that it is a New Zealand Standard made in accordance with the requirements of this Act.
- (2) The production in any proceedings of a copy of a standard or specification purporting to be a New Zealand Standard is sufficient evidence that it is a New Zealand Standard in the absence of proof to the contrary.
- (3) Subsection (2) does not affect any other method of proof.

Compare: 1988 No 5 s 25

## Subpart 3—Accreditation of conformity assessment bodies

### *Accreditation Council*

#### **33 Continuation of Accreditation Council**

- (1) The council established under section 3 of the Testing Laboratory Registration Act 1972 is continued as the Accreditation Council (the **Council**).
- (2) The Accreditation Council is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- (3) The Crown Entities Act 2004 applies to the Accreditation Council except to the extent that this Act expressly provides otherwise.
- (4) The members of the Accreditation Council are the board for the purposes of the Crown Entities Act 2004.

Compare: 1972 No 36 s 3

#### **34 Membership of Accreditation Council**

- (1) The Accreditation Council consists of 5 to 7 members, who must be appointed by the Minister under section 28 of the Crown Entities Act 2004.
- (2) In appointing members to the Accreditation Council, the Minister must have regard to—
  - (a) nominations put forward by persons or bodies involved or interested in the development and use of conformity assessment;
  - (b) the nominees' knowledge of, and experience in, management;
  - (c) the nominees' knowledge of, and experience in, conformity assessment.
- (3) The Minister may, at any time, remove a member of the Accreditation Council from office by written notice to the member (with a copy to the Council).
- (4) A member of the Accreditation Council may, at any time, resign from office by written notice to the Minister (with a copy to the Council) signed by the member.
- (5) A resignation under subsection (4) is effective on receipt by the Minister of the notice or at any later time specified in the notice.

Compare: 1972 No 36 s 4

#### **35 Functions of Accreditation Council**

The functions of the Accreditation Council are—

- (a) to promote the development and maintenance of good practice in conformity assessment; and
- (b) to establish and maintain accreditation schemes for conformity assessment bodies engaged in testing and inspection activities; and
- (c) to develop and maintain international recognition and acceptance of the Council's accreditation scheme; and

- (d) to maintain appropriate international relationships consistent with the Council's functions under this section; and
- (e) to act as New Zealand's good laboratory practice compliance monitoring authority; and
- (f) if the Council chooses, to provide certification services; and
- (g) to perform any other functions that the Minister directs the Council to perform in accordance with section 112 of the Crown Entities Act 2004.

Compare: 1972 No 36 s 12

### **36 Criteria for accreditation schemes**

In establishing and maintaining an accreditation scheme under section 35(b), the Accreditation Council must have regard to whether the scheme—

- (a) is consistent with international practice; and
- (b) facilitates trade; and
- (c) addresses an identified industry, consumer, or regulatory need.

### **37 Powers of Accreditation Council generally**

- (1) The Accreditation Council may—
  - (a) provide, subject to such conditions as the Council thinks fit, for the accreditation of conformity assessment bodies engaged in testing and inspection activities that—
    - (i) apply for accreditation; and
    - (ii) in the Council's opinion, comply with the requirements set by the Council:
  - (b) prescribe a period of accreditation for any body referred to in paragraph (a):
  - (c) provide for the revocation of the accreditation of a conformity assessment body under this Act (after considering any submissions made on its behalf) for failing to comply with all or any of the requirements or conditions set by the Council on accreditation:
  - (d) require, for every conformity assessment body accredited under this Act,—
    - (i) the institution and maintenance, to the satisfaction of the Council, of control of the services for which the conformity assessment body is accredited; and
    - (ii) the maintenance of any records that, in the opinion of the Council, are necessary to establish that control is maintained:
  - (e) authorise the endorsement, in the name of the Council, of conformity assessment documents issued for services if—

- (i) the documents are offered by a conformity assessment body accredited under this Act; and
  - (ii) the services are services for which the conformity assessment body is accredited:
- (f) co-operate with producers and providers of goods, services, and facilities in New Zealand with the object of maintaining and improving the quality of those goods, services, and facilities through the use of conformity assessment practices approved by the Council:
  - (g) co-operate with any person, association, or organisation outside New Zealand having similar functions or objects, with a view to furthering the functions of the Council:
  - (h) become a member of or affiliate to any international body concerned with similar functions or objects:
  - (i) establish and maintain libraries and other sources of information for reference in respect of matters relating to the functions of the Council:
  - (j) collect and disseminate information relating to conformity assessment, including the publication of reports, pamphlets, books, journals, and other publications:
  - (k) provide advisory and other services in respect of conformity assessment:
  - (l) promote research into methods of conformity assessment:
  - (m) promote the testing and assessment of goods and services:
  - (n) establish training centres, consultancies, and other establishments considered necessary for the efficient exercise of its functions:
  - (o) charge fees in respect of accreditation under this Act and of any other services provided:
  - (p) exercise any other powers and perform any other duties that are conferred on it by this Act or any other enactment.
- (2) This section does not limit the Council's powers under sections 16 and 17 of the Crown Entities Act 2004.

Compare: 1972 No 36 s 13

### **38 Accreditation requirements**

- (1) The Accreditation Council must ensure that any requirements for, or conditions of, accreditation set by the Council under section 37(1)(a)(ii) are published at all times on an Internet site maintained by or on behalf of the Council.
- (2) Regulations may prescribe criteria that the Accreditation Council must apply when setting requirements or conditions under section 37(1)(a).

**39 Accreditation Council exempted from income tax**

The Accreditation Council is exempt from payment of income tax.

Compare: 1972 No 36 s 21

*Restrictions***40 Statements or representations about being accredited**

- (1) No person may make any statement or representation or use any mark with reference to any goods, processes, services, or facilities that gives or is likely to give the impression that a conformity assessment body that is not accredited under this Act is so accredited.
- (2) A person who breaches subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$5,000.

Compare: 1972 No 36 s 30

## Part 2 Miscellaneous provisions

**41 Regulations**

- (1) The Governor-General may, by Order in Council, make regulations providing for any matter that is contemplated by this Act as necessary—
  - (a) for giving it full effect; or
  - (b) for its administration.
- (2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 41(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

**42 Disestablishment of Standards Council**

The Standards Council (continued under section 3 of the Standards Act 1988) is disestablished.

**43 Transitional provisions**

- (1) The transitional provisions in Schedule 2 apply to the transfer of the functions, work, and employees of the Standards Council.

- (2) The transitional provisions in Schedule 3 relate to members of the Testing Laboratory Registration Council.

**44 Amendment to Copyright Act 1994**

- (1) This section amends the Copyright Act 1994.
- (2) After section 27(1B), insert:
- (1C) Subsection (1A) does not affect copyright in any New Zealand Standard (as that term is defined in the Standards and Accreditation Act 2015).

**45 Consequential amendments**

- (1) The enactments listed in Schedule 4 are amended in the manner set out in that schedule.
- (2) The enactments listed in Schedule 5 are amended in the manner set out in that schedule.

**46 Repeals**

- (1) The Standards Act 1988 (1988 No 5) is repealed.
- (2) The Testing Laboratory Registration Act 1972 (1972 No 36) is repealed.

**47 Revocation**

The Standards Regulations 2006 (SR 2006/327) are revoked.

## Schedule 1

### Provisions relating to Board, chairperson, and members

s 14

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**1 Appointment of Board members**

- (1) The Minister must appoint persons to be members of the Board who the Minister considers collectively have the skills and experience necessary to approve New Zealand Standards, including knowledge of the sectors that use standards.
- (2) The Minister must only appoint a person to be a member of the Board who the Minister considers has adequate skills and experience to perform the functions of the Board (including knowledge of, and experience in, standards).
- (3) An appointment of a member of the Board—
  - (a) must be made by notice in the *Gazette*; and
  - (b) takes effect from the date of the notice, or a later date specified in the notice.
- (4) The Board's powers are not affected by any vacancy in its membership.

**2 Nomination of Board members**

- (1) If the Minister considers it appropriate, he or she may invite public or private nominations before appointing a member to the Board.
- (2) If the Minister invites public nominations under subclause (1), he or she must do so by publishing a notice—
  - (a) stating the number of appointments the Minister intends to make; and
  - (b) calling for nominations to be sent to the Minister; and
  - (c) stating a date after which the Minister may decline to accept nominations, being a date not less than 28 days after the date of the first publication of the notice.
- (3) A notice under subclause (2) may be published on an Internet site or in print media and for the period or with the frequency that the Minister thinks appropriate.

Schedule 1 clause 2(3): replaced, on 24 October 2019, by section 144(1) of the Statutes Amendment Act 2019 (2019 No 56).

**3 Method of appointment**

- (1) The Minister appoints or reappoints a member of the Board, and a chairperson of the Board, by giving written notice to the member concerned.
- (2) A notice under subclause (1) must—

- (a) state the date on which the appointment takes effect, which must not be earlier than the date on which the notice is received; and
- (b) in the case of the appointment of a member, state the term of the appointment.

Compare: 2005 No 39 Schedule 2 cl 1

#### **4 Validity of Board members' acts**

The acts of a person as a member or chairperson of the Board are valid even though—

- (a) a defect existed in the appointment of the person; or
- (b) the occasion for the person's acting, or for his or her appointment, had not arisen or had ended.

Compare: 2005 No 39 Schedule 2 cl 3

#### **5 Validity of appointments**

- (1) The appointment of a person as a member or chairperson of the Board is not invalid only because a defect existed in the appointment of the person.
- (2) This clause does not apply to a defect in the qualifications for appointment of a member.

Compare: 2005 No 39 Schedule 2 cl 4

#### **6 Term of office**

- (1) A member of the Board holds office for 3 years or any shorter period stated in the notice of appointment.
- (2) A member may be reappointed.
- (3) A member continues in office despite the expiry of his or her term of office until—
  - (a) the member is reappointed; or
  - (b) the member's successor is appointed; or
  - (c) the Minister informs the member by written notice (with a copy to the Board) that the member is not to be reappointed and no successor is to be appointed at that time.

- (4) This clause is subject to clauses 7 and 8.

Compare: 2005 No 39 Schedule 2 cl 5

#### **7 Removal of Board members**

- (1) The Minister may at any time remove a member of the Board from office.
- (2) The removal must be made by written notice to the member (with a copy to the Board).
- (3) The notice must state the date on which the removal takes effect, which must not be earlier than the date on which the notice is received.

- (4) The Minister must notify the removal in the *Gazette* as soon as practicable after giving the notice.
- (5) To avoid doubt, the Minister may not remove a member unless the Minister has properly considered the matter and complied with the principles of natural justice.

Compare: 2005 No 39 Schedule 2 cl 6

## **8 Resignation of Board member**

- (1) A member of the Board may resign from office by written notice to the Minister (with a copy to the Board) signed by the member.
- (2) The resignation is effective on receipt by the Minister of the notice or at any later time specified in the notice.
- (3) *[Repealed]*

Compare: 2005 No 39 Schedule 2 cl 7

Schedule 1 clause 8(3): repealed, on 24 October 2019, by section 144(2) of the Statutes Amendment Act 2019 (2019 No 56).

## **9 Chairperson of Board**

- (1) The Minister must, by notice in the *Gazette*, appoint a member of the Board to be the chairperson of the Board for a term that the Minister specifies in the notice of appointment.
- (2) If the office of chairperson is vacant, the members may elect one of their number to act as chairperson until an appointment is made under subclause (1).

## **10 Term of appointment of chairperson of Board**

The chairperson of the Board holds that office until—

- (a) he or she resigns that office; or
- (b) he or she is removed from it by the Minister; or
- (c) he or she ceases to hold office as a member; or
- (d) any term of office specified on appointment expires (unless the member continues to hold office in accordance with clause 6(3) or is reappointed for a further term).

Compare: 2004 No 115 Schedule 5 cl 2; 2005 No 39 Schedule 2 cl 8

## **11 Resignation of chairperson of Board**

- (1) The chairperson of the Board may, without resigning as a member, resign the office of chairperson by written notice to the Minister (with a copy to the Board).
- (2) The notice of resignation must state the date on which the resignation takes effect.
- (3) *[Repealed]*

Schedule 1 clause 11(3): repealed, on 24 October 2019, by section 144(2) of the Statutes Amendment Act 2019 (2019 No 56).

## **12 Removal of chairperson of Board**

- (1) The Minister may, after consultation with the person concerned, remove a chairperson of the Board from that office with or without also removing that person as a member by written notice to the person (with a copy to the Board).
- (2) The notice of removal must state the date on which the removal takes effect.
- (3) The Minister must notify the removal in the *Gazette* as soon as practicable after giving the notice.

*No compensation for loss of office*

## **13 No compensation for loss of office**

A member or chairperson of the Board is not entitled to any compensation or other payment or benefit relating to his or her ceasing, for any reason, to hold office as a member or chairperson.

*Procedure of Board*

## **14 Procedure of Board**

The Board may, subject to clauses 15 to 18, regulate its own procedure.

## **15 Power to appoint committees and subcommittees**

- (1) The Board may by resolution appoint any committees and subcommittees of members that it considers appropriate.
- (2) To avoid doubt, a committee is not empowered to appoint its own subcommittees.
- (3) A committee is subject to the control of the Board, and must carry out all general and special directions of the Board.
- (4) A subcommittee is subject to the control of the committee of which it is a subcommittee, and must carry out all general and special directions of that committee.
- (5) Unless expressly provided otherwise in any enactment, the Board may discharge or reconstitute a committee or subcommittee.

Compare: 2002 No 84 Schedule 7 cl 30

## **16 Meetings**

- (1) The Board or its chairperson must—
  - (a) appoint the times and places of meetings of the Board; and
  - (b) give notice of those meetings to each member not present when the appointment is made.

- (2) The chairperson must preside at all meetings of the Board if he or she is present and not personally interested in the matter.
- (3) If the chairperson is not present, or is personally interested in the matter, the Board must appoint one of its members to preside.
- (4) The person appointed to preside under subclause (3) may exercise all the powers and functions of the chairperson for the purposes of the meeting.
- (5) No business may be transacted at a meeting of the Board if a quorum is not present.
- (6) For the purposes of subclause (5) and clause 17, **quorum** means—
  - (a) a majority of the members if there is an odd number of members of the Board:
  - (b) half of the members if there is an even number of members of the Board.
- (7) Each member has 1 vote and, in addition to his or her general vote, the chairperson has a casting vote in the case of an equality of votes.
- (8) A resolution of the Board is passed if—
  - (a) all members present agree to it; or
  - (b) a majority of the votes cast on it are in favour of it.
- (9) A member present at a meeting of the Board is presumed to have agreed to, and to have voted in favour of, a resolution of the Board unless he or she expressly dissents from or votes against the resolution at the meeting.

## **17 Methods of holding meetings**

A meeting of the Board may be held—

- (a) by a quorum of the members, being assembled together at the time and place appointed for the meeting; or
- (b) by means of audio, audio and visual, or electronic communication provided that—
  - (i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and
  - (ii) a quorum of members can simultaneously communicate with each other throughout the meeting.

## **18 Unanimous written resolutions**

- (1) A resolution signed or assented to in writing (whether sent by post, delivery, or electronic communication) by all members is as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted.
- (2) The resolution may consist of several documents containing the same resolution, each signed or assented to in writing by 1 or more members.

*Administrative and secretarial services to Board***19 Chief executive to provide administrative and secretarial services to Board**

The chief executive must provide all reasonable administrative and secretarial services that are necessary to enable the Board to discharge its functions and responsibilities under this Act or any other enactment.

*Individual duties of members***20 Duty to comply with this Act**

A member must not—

- (a) contravene this Act; or
- (b) cause the contravention of this Act; or
- (c) agree to the Board's contravening this Act.

Compare: 2005 No 39 Schedule 2 cl 16

**21 Duty to act with honesty and integrity**

A member must, when acting as a member, act with honesty and integrity.

Compare: 2005 No 39 Schedule 2 cl 17

**22 Duty to act in good faith**

A member must, when acting as a member, act in good faith and not pursue his or her own interests at the expense of the Board's interests.

Compare: 2004 No 115 s 55; 2005 No 39 Schedule 2 cl 18

**23 Duty to act with reasonable care, diligence, and skill**

A member must, when acting as a member, exercise the care, diligence, and skill that a reasonable person would exercise in the same circumstances, taking into account (without limitation)—

- (a) the nature of the Board; and
- (b) the nature of the action; and
- (c) the position of the member and the nature of the responsibilities undertaken by him or her.

Compare: 2005 No 39 Schedule 2 cl 19

**24 Duty not to disclose information**

- (1) A member who has information in his or her capacity as a member that would not otherwise be available to him or her must not disclose that information to any person, or make use of, or act on, that information, except—

- (a) in the performance of the Board's functions; or
- (b) as required or permitted by law; or
- (c) in accordance with subclause (2); or

- (d) in complying with the requirement for members to disclose interests.
- (2) A member may disclose, make use of, or act on the information if—
  - (a) the member is first authorised to do so by the Board or by the Minister; and
  - (b) the disclosure, use, or act in question will not, or will be unlikely to, prejudice the Board.

Compare: 2005 No 39 Schedule 2 cl 20

## **25 Duty to disclose conflict of interest**

- (1) A member who is personally interested in a matter relating to the Board must disclose details of the nature and extent of the interest (including any monetary value of the interest)—
  - (a) to the chairperson of the Board; and
  - (b) in an interests register kept by the Board.
- (2) Disclosure under subclause (1) must be made as soon as practicable after the member becomes aware that he or she is personally interested.
- (3) A member who is personally interested in a matter relating to the Board must not vote or take part in any discussion or decision of the Board relating to the matter.
- (4) A member who is personally interested in a matter relating to the Board must be disregarded for the purpose of forming a quorum for that part of a meeting of the board or committee during which a discussion or decision relating to the matter occurs or is made.
- (5) In this clause, **matter** means the Board's performance of its functions under this Act.

Compare: 2004 No 115 s 66(c); 2005 No 39 Schedule 2 cl 21

## **26 Consequences of failing to disclose interest**

- (1) The Board must notify the responsible Minister of any failure to comply with clause 25.
- (2) A failure to comply with clause 25 does not affect the validity of an act or matter.
- (3) However, subclause (2) does not limit the right of any person to apply, in accordance with law, for judicial review.

Compare: 2004 No 115 s 67

## **27 Accountability for individual duties**

- (1) A member is not liable for a breach of an individual duty under this Act.
- (2) However, this clause does not affect—
  - (a) anything in clause 7 or 12 (removal of member or chairperson); or

- (b) anything else for which the member may be liable under any other Act or rule of law arising from the act or omission that constitutes the breach.

Compare: 2005 No 39 Schedule 2 cl 22

### *Collective duties of Board*

## **28 Collective duties of Board**

The Board must—

- (a) act in a manner consistent with the objectives and functions of the Board:
- (b) perform its functions efficiently and effectively and in a manner consistent with the spirit of service to the public:
- (c) not contravene this Act.

### *Immunities and insurance*

## **29 Immunity from civil liability**

- (1) A member of the Board is not liable, in respect of an excluded act or omission,—
  - (a) to the Minister, unless it is also a breach of an individual duty under any of clauses 20 to 25:
  - (b) to any other person.
- (2) Nothing in this clause affects—
  - (a) the liability of any person that is not a civil liability:
  - (b) the right of any person to apply for judicial review.
- (3) In this clause, **excluded act or omission** means an act or omission by the member in good faith and in the performance or intended performance of the Board's functions.

## **30 Insurance for liability of member**

- (1) The chief executive may effect insurance cover for the acts or omissions of a member of the Board done or made during his or her term as a member.
- (2) However, the chief executive may not effect insurance cover under subclause (1) for—
  - (a) an act done or an omission made in bad faith:
  - (b) an act or omission that is not in the performance or intended performance of the Board's functions.
- (3) In this clause, **to effect insurance** includes to pay, whether directly or indirectly, the costs of the insurance.



*Fees and allowances*

**31 Fees and allowances**

- (1) The members of the Board are entitled to be paid the following, in accordance with the fees framework:
  - (a) fees as determined by the Minister; and
  - (b) reimbursing allowances or actual and reasonable expenses incurred in undertaking the functions and duties of the Board.
- (2) In subclause (1), **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.

## Schedule 2

### Transition from Standards Council

s 43(1)

#### 1 Interpretation

In this schedule,—

**Standards Council** includes Standards NZ

**transferred employee** means a person who—

- (a) was employed by the Standards Council immediately before the commencement of this schedule; and
- (b) becomes an employee of the Ministry on the commencement of this schedule.

#### 2 Assets, records, liabilities, and debts of Standards Council

All of the assets, records, liabilities, and debts of the Standards Council are vested in the Ministry.

#### 3 Savings in relation to fees for New Zealand Standards

The fee for obtaining a copy, or online access to a New Zealand Standard is the fee (if any) that applied immediately before the repeal of the Standards Act 1988 until a fee for that standard is set under section 26(1) of this Act.

#### 4 Transition of work from Standards Council to Board or NZ Standards Executive

Any work of the Standards Council that was in progress immediately before the date this schedule comes into force may,—

- (a) if it corresponds substantially to the functions of the Board, be carried on and completed by the Board; and
- (b) if it corresponds substantially to the functions of the NZ Standards Executive, be carried on and completed by the NZ Standards Executive.

#### 5 Existing standards development work

- (1) The NZ Standards Executive must, as soon as practicable after the date this schedule comes into force, determine whether the standards development work of each committee of the Standards Council is to be continued or discontinued under this Act.
- (2) If the NZ Standards Executive determines that any standards development work is to be discontinued, he or she must return any intellectual property that was assigned to the Standards Council in respect of that standards development work to the person who assigned it.

- (3) If the NZ Standards Executive determines that any standards development work is to be continued, he or she—
- (a) may establish a new standards development committee or committees under section 15 to continue that work; or
  - (b) continue a committee of the Standards Council as a standards development committee under this Act.
- (4) To avoid doubt, sections 15 to 24 apply, from the date this schedule comes into force, to any committee continued under subclause (3)(b).

#### **6 Restriction on compensation for technical redundancy**

- (1) An employee of the Standards Council (including an employee of Standards NZ) is not entitled to receive any payment or other benefit on the ground that the position held by the employee at the Standards Council has ceased to exist if—
- (a) the position ceases to exist as a result of a transfer of functions from the Standards Council to the NZ Standards Executive; and
  - (b) in connection with that transfer of functions,—
    - (i) the employee is offered equivalent employment at the Ministry (whether or not the employee accepts the offer); or
    - (ii) the employee is offered, and accepts, other employment at the Ministry.
- (2) In subclause (1), **equivalent employment** to the employee's employment at the Standards Council is employment at the Ministry that is—
- (a) in substantially the same position; and
  - (b) in the same general locality; and
  - (c) on terms and conditions of employment that are no less favourable than those that applied to the employee immediately before the offer of equivalent employment (including any service-related, redundancy, and superannuation conditions); and
  - (d) on terms that treat the period of service with the Standards Council (and any other period of service recognised by the Standards Council as continuous service) as if it were continuous service with the Ministry.
- (3) This clause overrides Part 6A of the Employment Relations Act 2000.

#### **7 Employment of transferred employee to be treated as continuous employment**

The employment of a transferred employee by the Ministry is to be treated as continuous employment for the purposes of any enactment.

**8 Government Superannuation Fund**

- (1) Any transferred employee who, immediately before becoming an employee of the Ministry, was a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956 is deemed, for the purposes of that Act, to be employed in the Government service as long as the person continues to be an employee of the Ministry.
- (2) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person's service as an employee of the Ministry were Government service.
- (3) Subclause (1) does not entitle a person to become a contributor to the Government Superannuation Fund if the person has ceased to be a contributor.
- (4) For the purpose of applying the Government Superannuation Fund Act 1956, the chief executive is the controlling authority.

**9 Transfer of contracts to Ministry**

- (1) This clause applies to a contract (other than an employment agreement) that—
  - (a) was made between the Standards Council and another person; and
  - (b) related solely to a function or power of the Standards Council under the Standards Act 1988 before the commencement of this Act that becomes a function or power of the Ministry on that commencement.
- (2) On and after the commencement of this Act,—
  - (a) the contract must be treated as if the NZ Standards Executive were the party to the contract instead of Standards NZ or the Standards Council (as the case requires); and
  - (b) unless the context otherwise requires, every reference in the contract to Standards NZ or the Standards Council is to be read as a reference to the NZ Standards Executive.

### **Schedule 3**

## **Transition from Testing Laboratory Registration Council**

s 43(2)

#### **1 Members appointed by Minister**

- (1) Any person who was a member of the Testing Laboratory Registration Council immediately before the commencement of this schedule who had been appointed under section 4(1)(a) of the Testing Laboratory Registration Act 1972 continues as a member of the board of the Accreditation Council.
- (2) Subclause (1) is subject to section 32(3) of the Crown Entities Act 2004.

#### **2 Members appointed by Accreditation Council**

To avoid doubt, a person who was a member of the Testing Laboratory Registration Council immediately before the commencement of this schedule who had been appointed under section 4(1)(b) of the Testing Laboratory Registration Act 1972 ceases to be a member of that council on the repeal of the Testing Laboratory Registration Act 1972 by section 46(2) of this Act.

## Schedule 4

### Consequential amendments relating to standards

s 45(1)

**Biosecurity Act 1993 (1993 No 95)**

In section 142S(3), replace “Sections 22 to 25 of the Standards Act 1988” with “Sections 29 to 32 of the Standards and Accreditation Act 2015”.

**Building Act 2004 (2004 No 72)**

In section 119(4), replace “Standards Council” with “NZ Standards Organisation”.

Replace section 119(5) with:

- (5) In this section, **NZ Standards Organisation** has the meaning given to it in section 4(1) of the Standards and Accreditation Act 2015.

In section 413, replace “sections 22 to 25 of the Standards Act 1988” with “sections 29 to 32 of the Standards and Accreditation Act 2015”.

**Civil Aviation Act 1990 (1990 No 98)**

In section 36(9), replace “sections 22 to 25 of the Standards Act 1988” with “sections 29 to 32 of the Standards and Accreditation Act 2015”.

**Climate Change Response Act 2002 (2002 No 40)**

In the heading to section 177, replace “**Standards Act 1988**” with “**Standards and Accreditation Act 2015**”.

In section 177, replace “sections 22 to 25 of the Standards Act 1988” with “sections 29 to 32 of the Standards and Accreditation Act 2015”.

**Commerce Act 1986 (1986 No 5)**

Replace section 44(1)(e) with:

- (e) to the entering into of a contract, or arrangement, or arriving at an understanding in so far as it contains a provision obliging a person to comply with or apply—
- (i) a New Zealand Standard relating to dimension, design, quality, or performance; or
  - (ii) a standard of dimension, design, quality, or performance prepared or approved by any association or body prescribed for the purpose of this paragraph by regulations made under this Act:

**Crown Entities Act 2004 (2004 No 115)**

In Schedule 1, Part 2, repeal the item relating to the Standards Council.

**Dairy Industry Restructuring Act 2001 (2001 No 51)**

In Schedule 5E, replace clause 10 with:

**Dairy Industry Restructuring Act 2001 (2001 No 51)—continued**

**10 Standards and Accreditation Act 2015**

Nothing in this schedule affects the application of sections 29 to 32 of the Standards and Accreditation Act 2015.

**Electricity Act 1992 (1992 No 122)**

In section 2(1), definition of **official standard**, paragraph (a), replace “Standards Act 1988” with “Standards and Accreditation Act 2015”.

**Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72)**

In the heading to section 155, replace “Standards Act 1988” with “Standards and Accreditation Act 2015”.

In section 155, replace “sections 22 to 25 of the Standards Act 1988” with “sections 29 to 32 of the Standards and Accreditation Act 2015”.

**Fair Trading Act 1986 (1986 No 121)**

In section 2(1), definition of **official standard**, paragraph (a), replace “section 2 of the Standards Act 1988” with “section 4(1) of the Standards and Accreditation Act 2015”.

In section 2(1), definition of **official standard**, paragraph (b), replace “Standards Council within the meaning of section 2 of the Standards Act 1988” with “NZ Standards Organisation (as that term is defined in the Standards and Accreditation Act 2015)”.

**Gas Act 1992 (1992 No 124)**

In section 2(1), definition of **official standard**, paragraph (a), replace “Standards Act 1988” with “Standards and Accreditation Act 2015”.

**Health Act 1956 (1956 No 65)**

Replace section 112ZO with:

**112ZO Application of Standards and Accreditation Act 2015 not affected**

Sections 112ZG to 112ZM do not affect the application of sections 29 to 32 of the Standards and Accreditation Act 2015.

**Human Tissue Act 2008 (2008 No 28)**

In Schedule 5, replace clause 9 with:

**9 Application of Standards and Accreditation Act 2015 not affected**

Clauses 1 to 8 do not affect the application of sections 29 to 32 of the Standards and Accreditation Act 2015.

**Land Transport Act 1998 (1998 No 110)**

In section 165(1)(b),—

- (a) replace “New Zealand Standards Association” with “NZ Standards Organisation”; and
- (b) replace “New Zealand Standards Council” with “NZ Standards Organisation”.

In section 165(9), replace “sections 22 to 25 of the Standards Act 1988” with “sections 29 to 32 of the Standards and Accreditation Act 2015”.

**Legislation Act 2012 (2012 No 119)**

In the heading to section 57, replace “**Standards Act 1988**” with “**Standards and Accreditation Act 2015**”.

In section 57, replace “sections 22 to 25 of the Standards Act 1988” with “sections 29 to 32 of the Standards and Accreditation Act 2015”.

**Maritime Transport Act 1994 (1994 No 104)**

In section 452(1)(c)(iii),—

- (a) replace “Standards New Zealand” with “the NZ Standards Organisation”; and
- (b) replace “New Zealand Standards Council” with “NZ Standards Organisation”.

In section 452(9), replace “sections 22 to 25 of the Standards Act 1988” with “sections 29 to 32 of the Standards and Accreditation Act 2015”.

**Medicines Act 1981 (1981 No 118)**

In Schedule 3, heading to clause 8, replace “**Standards Act 1988**” with “**Standards and Accreditation Act 2015**”.

In Schedule 3, clause 8, replace “sections 22 to 25 of the Standards Act 1988” with “sections 29 to 32 of the Standards and Accreditation Act 2015”.

**National Animal Identification and Tracing Act 2012 (2012 No 2)**

In section 70(3), replace “section 2 of the Standards Act 1988” with “section 4(1) of the Standards and Accreditation Act 2015”.

**Official Information Act 1982 (1982 No 156)**

In Schedule 1, insert in its appropriate alphabetical order:

New Zealand Standards Approval Board

**Ombudsmen Act 1975 (1975 No 9)**

In Schedule 1, Part 2, repeal the item relating to the Standards Council.

**Public Bodies Contracts Act 1959 (1959 No 98)**

In Schedule 1, Part 2, repeal the item relating to the Standards Council.



**Radiocommunications Act 1989 (1989 No 148)**

Replace section 133(3) with:

- (3) Any reference standard may adopt as a standard or specification any New Zealand Standard or any part of a New Zealand Standard (as that term is defined in the Standards and Accreditation Act 2015).

In Schedule 8, replace clause 8 with:

**8 Application of Standards and Accreditation Act 2015 not affected**

Clauses 1 to 7 do not affect the application of sections 29 to 32 of the Standards and Accreditation Act 2015.

**Social Security Act 1964 (1964 No 136)**

In section 88A, definition of **evidential drug test**, paragraph (c), replace “sections 22 to 25 of the Standards Act 1988” with “sections 29 to 32 of the Standards and Accreditation Act 2015”.

## Schedule 5

### Consequential amendments relating to accreditation

s 45(2)

#### Part 1

#### Amendments to Acts

##### **Animal Products Act 1999 (1999 No 93)**

In section 161(5)(a)(ivb), replace “Testing Laboratory Registration Act 1972” with “Standards and Accreditation Act 2015”.

##### **Crown Entities Act 2004 (2004 No 115)**

In Schedule 1, Part 2, insert in its appropriate alphabetical order:

Accreditation Council

In Schedule 1, Part 2, repeal the item relating to the Testing Laboratory Registration Council.

##### **Flags, Emblems, and Names Protection Act 1981 (1981 No 47)**

In Schedule 3, repeal the item relating to the Testing Laboratory Registration Act 1972.

##### **Health Act 1956 (1956 No 65)**

In section 69ZY(2)(a)(i), replace “registered under the Testing Laboratory Registration Act 1972” with “accredited under subpart 3 of Part 1 of the Standards and Accreditation Act 2015”.

##### **Official Information Act 1982 (1982 No 156)**

In Schedule 1, insert in its appropriate alphabetical order:

Accreditation Council

In Schedule 1, repeal the item relating to the Testing Laboratory Registration Council.

##### **Ombudsmen Act 1975 (1975 No 9)**

In Schedule 1, Part 2, insert in its appropriate alphabetical order:

Accreditation Council

In Schedule 1, Part 2, repeal the item relating to the Testing Laboratory Registration Council.

##### **Public Bodies Contracts Act 1959 (1959 No 98)**

In Schedule 1, Part 2, insert in its appropriate alphabetical order:

Accreditation Council

Standards and Accreditation Act 2015

**Public Bodies Contracts Act 1959 (1959 No 98)**—*continued*

In Schedule 1, Part 2, repeal the item relating to the Testing Laboratory Registration Council.

**Part 2**  
**Amendments to legislative instruments**

**Accident Insurance (Occupational Hearing Assessment Procedures) Regulations 1999 (SR 1999/167)**

In regulation 2, definition of **audiometer**,—

- (a) replace “Testing Laboratory Registration Council” with “Accreditation Council”; and
- (b) replace “Testing Laboratory Registration Act 1972” with “Standards and Accreditation Act 2015”.

**Corrections Regulations 2005 (SR 2005/53)**

In regulation 3, definition of **specified laboratory**, paragraph (a), replace “registered under the Testing Laboratory Registration Act 1972” with “accredited under subpart 3 of Part 1 of the Standards and Accreditation Act 2015”.

**Energy Efficiency (Energy Using Products) Regulations 2002 (SR 2002/9)**

In regulation 3, definition of **accredited laboratory**, paragraph (a), replace “Testing Laboratory Registration Council of New Zealand” with “Accreditation Council (as that term is defined in section 4(1) of the Standards and Accreditation Act 2015)”.

**Gas (Safety and Measurement) Regulations 2010 (SR 2010/76)**

In regulation 3(1), definition of **competent organisation**, paragraph (a), after “ISO 17025 by”, insert “the Accreditation Council operating as”.

In regulation 3(1), definition of **competent organisation**, paragraph (b), replace “under the Testing Laboratory Registration Act 1972” with “under subpart 3 of Part 1 of the Standards and Accreditation Act 2015”.

**Health and Safety in Employment (Asbestos) Regulations 1998 (SR 1998/443)**

In regulation 2, definition of **New Zealand accredited laboratory**, replace “Testing Laboratory Registration Council” with “Accreditation Council”.

**Health and Safety in Employment (Petroleum Exploration and Extraction) Regulations 2013 (SR 2013/208)**

In regulation 47(c), replace “Testing Laboratory Registration Council” with “Accreditation Council”.

**Health and Safety in Employment (Pipelines) Regulations 1999 (SR 1999/350)**

In regulation 9(1)(c), replace “Testing Laboratory Registration Council” with “Accreditation Council”.

**Health and Safety in Employment (Pressure Equipment, Cranes, and Passenger Ropeways) Regulations 1999 (SR 1999/128)**

In regulation 25(1)(a) and (g), replace “Testing Laboratory Registration Council” with “Accreditation Council”.

**Weights and Measures Regulations 1999 (SR 1999/373)**

In regulation 16, definition of **competent organisation**, replace paragraph (c) with:

- (c) the Accreditation Council:

## Notes

### **1** *General*

This is a consolidation of the Standards and Accreditation Act 2015 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

### **2** *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

### **3** *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

### **4** *Amendments incorporated in this consolidation*

Secondary Legislation Act 2021 (2021 No 7): section 3

Statutes Amendment Act 2019 (2019 No 56): Part 40

Standards and Accreditation Act Commencement Order 2015 (LI 2015/312)