



OFFENCES AND INVESTIGATION DECISIONS

POLICY ID 2.2 (5A)

Effective: 2 August 2017

1. Purpose

- 1.1 The Board of Professional Engineers of Queensland (**BPEQ**) is responsible for protecting the public, maintaining confidence in the profession and upholding professional standards of registered professional engineers in Queensland (**RPEQs**). The BPEQ's regulatory compliance and enforcement function, of which the complaints process is a key part, is critical to maintaining those standards, and consequently, public safety and public confidence in engineering services.
- 1.2 This Policy:
- (a) sets out the offences established by the *Professional Engineers Act 2002* (Qld) (**PE Act**); and
 - (b) provides guidance to BPEQ, RPEQs and the public as to how BPEQ will make a decision to investigate, or not to investigate, suspected offences against the PE Act.

2. Authority

- 2.1 Section 42 of the PE Act:
- (a) empowers BPEQ to make a decision to investigate a person who it reasonably suspects has committed an offence against the PE Act; and
 - (b) allows BPEQ, to help it decide whether to investigate, to give the person a notice stating the person may make a submission to BPEQ about the matter the subject of the suspected offence.

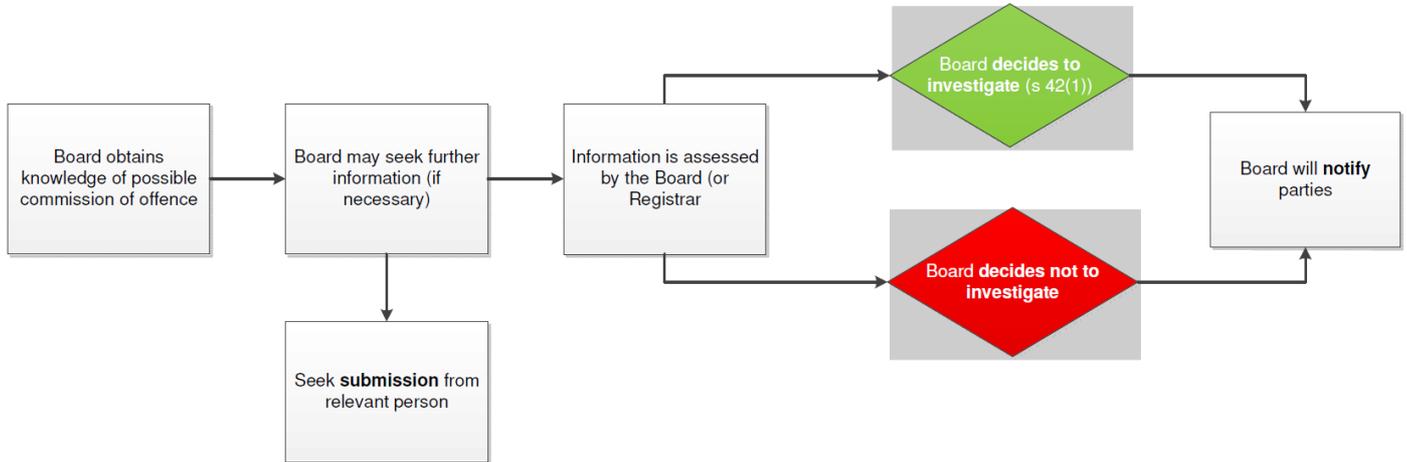
3. Scope

- 3.1 This Policy applies to any decision to be made by BPEQ to investigate a suspected offence against the PE Act pursuant to section 42 of the PE Act.



4. Overview

4.1 The statutory framework in respect of a decision to investigate an offence is illustrated below:



5. Offences

5.1 The PE Act contains 17 offence provisions across three categories:

Offence Type	Offence Provisions
Registration Offences	Sections 30, 31, 32, 32A, 32B, 32C
Investigation Offences	Sections 56(1), 56(2), 65, 66, 67, 68
Other Offences	Sections 113(1), 113(2), 114, 115(1), 115(3)

5.2 The offences against the PE Act are:

Section	Offence	Maximum Penalty
30	A person, in relation to an application under Part 2 of the PE Act (Registration) must not state anything to BPEQ the person knows is false or misleading in a material particular	50 penalty units
31	A person, in relation to an application under Part 2 of the PE Act (Registration) must not give BPEQ a document containing information the person knows is false or misleading in a material particular	50 penalty units
32	A RPEQ must, within 21 days after changing his or her name or contact details, advise BPEQ about the change unless the engineer has a reasonable excuse	10 penalty units



32A	A RPEQ must advise BPEQ about any disciplinary action (the event) taken against the engineer in another State or a foreign country in relation to the engineer's practice as an engineer, within 21 days after the event, unless the engineer has a reasonable excuse	50 penalty units
32B	A RPEQ must immediately notify BPEQ in writing if the engineer has been unable to competently and safely practise as a registered professional engineer for a continuous period of 3 months because of the engineer's mental or physical health unless the engineer has already notified BPEQ in writing of the incapacity or has a reasonable excuse	50 penalty units
32C	If a RPEQ receives a warning notice under section 27A of the PE Act or if the QCAT makes an order imposing a condition on the engineer's registration under section 131(3)(b), the engineer must return the engineer's certificate of registration to BPEQ within 21 days after receiving the warning notice or the QCAT makes the order, unless the engineer has a reasonable excuse	50 penalty units
56(1)	A person required to give information to BPEQ or an investigator under section 55 of the PE Act must comply with the requirement unless the person has a reasonable excuse	50 penalty units
56(2)	A person given a notice under section 55 must not, without reasonable excuse, fail to attend as required by the notice, to continue to attend as required by BPEQ or investigator until excused from further attendance, to answer a question the person is required to answer by BPEQ or investigator or to produce a document the person is required to produce by the notice	50 penalty units
65	A person must not, in relation to an investigation, state anything to BPEQ or an investigator that the person knows is false or misleading in a material particular	50 penalty units
66	A person must not, in relation to an investigation, give BPEQ or an investigator a document containing information that the person knows is false or misleading in a material particular	50 penalty units
67	A person must not obstruct BPEQ in its exercise of a power in the conduct of an investigation, or an investigator in the exercise of a power, unless the person has a reasonable excuse	100 penalty units
68	A person must not pretend to be an investigator	100 penalty units
113(1)	A person must not hold himself or herself out to be a RPEQ or allow himself or herself to be held out as a RPEQ	1000 penalty units
113(2)	A person must not hold out another person as a RPEQ if the person knows or ought reasonably to know the other person is not a RPEQ	1000 penalty units



114	A person who is not a RPEQ must not use the titles 'registered professional engineer', 'registered professional engineer of Queensland' or 'RPEQ' or another title or name, prescribed under a regulation, that in the context in which the title or name is used suggests that the person is a RPEQ	1000 penalty units
115(1)	A person who is not a practising RPEQ must not carry out professional engineering services	1000 penalty units
115(3)	A person who is a practising RPEQ must not carry out professional engineering services in an area of engineering other than an area of engineering for which the person is registered under the PE Act	1000 penalty units

6. Policy

Requesting a Submission

- 6.1 A decision to issue a notice seeking a response under section 42(2) of the PE Act is discretionary.
- 6.2 BPEQ will generally only send a notice to a person suspected of committing an offence against the PE Act seeking a submission about the matter the subject of the suspected offence where doing so would assist BPEQ to decide whether it reasonably suspects the commission of the offence.
- 6.3 If BPEQ can form a reasonable suspicion that an offence has been committed without seeking a response from the person suspected of committing an offence against the PE Act then it may make an investigation decision without seeking a response from the person.

Decision to Investigate

- 6.4 If BPEQ reasonably suspect an offence has been committed, its power to investigate is invoked.
- 6.5 Ordinarily, where BPEQ has a reasonable suspicion that an offence was committed, it will investigate the suspected offence unless discretionary factors weigh against doing so.
- 6.6 Those discretionary factors include:
- (a) the age of the alleged offence. There is no point investigating an offence that is time barred from prosecution;
 - (b) the nature, seriousness and consequences of the alleged offence;
 - (c) the circumstances of the person alleged to have committed an offence against the PE Act, including his/her health (physical and mental);
 - (d) the objects of the PE Act (with reference to the circumstances under consideration); and
 - (e) any other matter brought to the attention of BPEQ that may bear relevance to the decision.



- 6.7 Where BPEQ decides to conduct an investigation, it must notify the person suspected of committing the offence as soon as practicable after the decision is made.
- 6.8 Given the time limit for commencement of a prosecution imposed by section 139 of the PE Act, BPEQ is unlikely to investigate any suspected offence against the PE Act after the expiry of two years from the date of commission of the offence.

7. References

- 7.1 Related legislation:

Professional Engineers Act 2002:

Part 3 – Complaints and Investigations

Part 4 – Reports and Board's Decisions about Investigations

Part 7 – Other Offence Provisions