

Standards and Accreditation Bill

Government Bill

Explanatory note

General policy statement

This Bill amends and consolidates the law relating to standards and accreditation of conformity assessment bodies, and repeals and replaces the Standards Act 1988 and the Testing Laboratory Registration Act 1972.

The purpose of this Bill is to ensure the New Zealand Standards and conformance system is viable and well-functioning, and meets the needs of business, regulators, and consumers into the foreseeable future.

The Bill does this by putting in place new arrangements for New Zealand Standards development and approval, and making minor amendments to the institutional arrangements for the Testing Laboratory Registration Council to better reflect the nature of its functions.

Overview

In relation to New Zealand Standards development and approval, the Bill achieves its purpose by—

- establishing the New Zealand Standards Approval Board (the **Board**)—an independent statutory board to approve New Zealand Standards and membership of standards development committees, and advise the Minister on the currency of New Zealand Standards, priority areas for development of New

Zealand Standards, and the review of existing New Zealand Standards:

- establishing the NZ Standards Executive—an independent statutory officer who will be an employee of the Ministry of Business, Innovation and Employment (**MBIE**) responsible for standards development, and who will assume responsibility for New Zealand’s membership of the International Organization for Standardization and the International Electrotechnical Commission:
- requiring the NZ Standards Executive to continue the practice of developing standards by using independent committees approved by the Board:
- providing decision-making criteria to guide the Board in approving standards and membership of standards development committees:
- identifying a set of principles to guide the application of the funding model for standards.

This new infrastructure replaces the Standards Council (and its operational arm, Standards New Zealand), which will be disestablished by the Bill.

In relation to accreditation of conformity assessment bodies, the Bill achieves its purpose by updating the provisions of the Testing Laboratory Registration Act 1972 to ensure the Bill more accurately reflects the functions and obligations of the Testing Laboratory Registration Council.

Standards and conformance arrangements facilitate trade, promote innovation, and enable firms to leverage competitive advantage. Standards are also often cited in legislation. The new arrangements will ensure the value and contribution of standards and accredited conformity assessment bodies to economic development and well-being can continue and be maximised.

In providing new arrangements for standards and updating provisions for the accreditation of conformity assessment bodies, the Bill addresses the following objectives:

- maintaining confidence and credibility in the standards development and approval process, and in the process of accreditation:

- ensuring the standards and conformance system is responsive to demands from industry, consumers, and regulators:
- ensuring the standards and conformance system continues to meet international expectations, and ensuring the standards system is able to access international and trans-Tasman expertise and intellectual property:
- better alignment of standards with the Government's priorities such as economic growth, innovation, safety, and well-being:
- placing the standards development function on a financially sustainable footing and ensuring it is undertaken cost-effectively.

Locating the standards development function within MBIE is expected to facilitate more effective co-ordination with regulators, who are key commissioners and users of standards, and enhance the visibility and credibility of standards within other parts of government.

Standards

New Zealand Standards Approval Board

The Bill establishes an independent statutory board, the New Zealand Standards Approval Board, responsible for approving New Zealand Standards and membership of standards development committees. The Board will also have an independent role in advising the Minister on the currency of New Zealand Standards, priority areas for the development of New Zealand Standards, and the review of existing New Zealand Standards. The Board will not have a governance role and will not be subject to direction by the responsible Minister in the exercise of its functions.

The Board will decide whether to approve draft New Zealand Standards and proposed standards development committee membership. In doing so, it will be guided by decision-making criteria that are prescribed in the Bill. The decision-making criteria for New Zealand Standards approval are based on the principles that New Zealand Standards—

- are consistent with national and international expectations, including in relation to the composition and operation of standards development committees:
- contribute to trans-Tasman alignment:

- contribute to a more competitive and productive economy, including providing for the overall well-being and health and safety of New Zealanders:
- provide an overall benefit to New Zealand.

The Board will have the power to reject a draft standard or the proposed membership of a standards development committee and will be required to provide reasons for its decision.

The Board will comprise 5 to 7 members appointed by the Minister. Appointments will be based on the skills and experience required to perform the standards approval function, including knowledge of sectors that use standards. The Bill provides for the Minister to seek industry nominations if he or she chooses. These arrangements reflect best practice board appointment procedures.

NZ Standards Executive

The Bill establishes the NZ Standards Executive, an independent statutory officer within MBIE.

The Bill specifies the functions of the NZ Standards Executive, which include to—

- assume responsibility for New Zealand's membership of the International Organization for Standardization and the International Electrotechnical Commission:
- co-operate with international standards organisations to develop draft standards:
- manage the process for forming standards development committees, and to refer proposals for membership of standards development committees to the Board for approval:
- manage the process for reviewing and updating New Zealand Standards, and to refer proposals for New Zealand Standards to the Board for approval:
- make arrangements for access to standards.

The Bill requires the NZ Standards Executive to act independently in undertaking his or her functions, and to have regard to the value of standards, how they are appropriately employed, and the importance of maintaining expert input in the standards development process. The Bill enables the NZ Standards Executive to delegate his or her functions.

Where New Zealand Standards are cited in legislation, the Bill requires the NZ Standards Executive to notify the Minister responsible for that legislation if any amendment is proposed. This reflects the need to protect the integrity of legislation citing New Zealand Standards by ensuring the responsible Minister is aware of proposed changes to New Zealand Standards and can promote changes to the legislation if that is considered appropriate.

Standards development committees

The Bill provides for independent, balanced standards development committees, which could include industry and technical experts, consumer representatives, and, if appropriate, regulators. Membership will be proposed by the NZ Standards Executive and approved by the Standards Approval Board. This continues the central role of independent standards development committees in standards development.

Standards development committees will also be established to provide New Zealand input into the development of international standards. The New Zealand Electrotechnical Committee, whose existence is a requirement of membership to the International Electrotechnical Commission, will continue.

Principles for funding model

The Bill strengthens the current cost recovery model for standards. The Bill provides a framework to enable the NZ Standards Executive to set fees for access to standards and to recover the costs associated with developing, approving, maintaining, and providing access to New Zealand Standards and other standards-related publications, and other related activities. Costs include royalty and licensing fees associated with the intellectual property incorporated in standards. There is also specific provision for the NZ Standards Executive to enter into contractual arrangements for the development of New Zealand Standards and the recovery of costs in relation to these.

The framework provides for a balance between initial development costs and ongoing access costs for particular standards to be negotiated and agreed between the NZ Standards Executive and those commissioning New Zealand Standards. The Bill also specifies principles the NZ Standards Executive must have regard to in setting

the amount of fees or charges for cost recovery, namely, equity, efficiency, transparency, and flexibility.

Collectively, these measures are intended to ensure the standards system is financially sustainable, with flexibility available around the balance between upfront funding and recovery of development and access costs at a later date.

Consequential amendment to Copyright Act 1994

The Bill amends section 27 of the Copyright Act 1994 to maintain existing copyright protections for standards. This amendment is important to protect intellectual property owned by third parties (including international parties) and is required to remove uncertainty in the application of copyright or Crown copyright in New Zealand Standards that arises as a result of moving the standards development function into a Ministry.

Accreditation of conformity assessment bodies

The Bill updates the provisions of the Testing Laboratory Registration Act 1972 to make the following changes:

- replacing the term “registration” with the term “accreditation” to more accurately reflect the functions of the Testing Laboratory Registration Council, including renaming the council the Accreditation Council;
- recognising the Accreditation Council as New Zealand’s good laboratory practice compliance monitoring authority, in line with existing international obligations;
- changing the composition and appointment process for the Accreditation Council in order to streamline and strengthen the governance arrangements.

Departmental disclosure statement

The Ministry of Business, Innovation, and Employment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. It provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2014&no=230&>

Regulatory impact statement

The Ministry of Business, Innovation, and Employment produced regulatory impact statements on 26 September 2013 and 2 July 2014 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of these regulatory impact statements can be found at—

- <http://www.med.govt.nz/business/standards-conformance/standards-and-conformance-infrastructure-review>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill will come into force on a date or dates appointed by the Governor-General in 1 or more Orders in Council. Some flexibility in the commencement of the Bill is needed to ensure that operational and governance arrangements provided for in the Bill are established and ready to be implemented.

Part 1

Preliminary and key provisions

Subpart 1—Preliminary provisions

Clause 3 states the purposes of the Bill. The purposes are to—

- make provision for standards and conformity assessment systems in New Zealand that—
 - are consistent with international practice; and
 - facilitate trade; and
 - protect the health, safety, and well-being of the public:
- provide for the development, approval, and maintenance of New Zealand Standards:
- make provision for access to New Zealand Standards:

- designate an official known as the NZ Standards Executive to be responsible for the oversight of New Zealand Standards:
- establish the New Zealand Standards Approval Board:
- continue the Testing Laboratory Registration Council and rename it the Accreditation Council:
- provide for accreditation of conformity assessment bodies:
- repeal the Standards Act 1988 and the Testing Laboratory Registration Act 1972.

Clause 4 defines certain terms used in the Bill.

Clause 5 provides that the Bill binds the Crown.

Subpart 2—New Zealand Standards

NZ Standards Executive

Clause 6 provides that the Chief Executive of the Ministry of Business, Innovation, and Employment must appoint a suitable employee of the Ministry to be the NZ Standards Executive.

Clause 7 specifies the functions of the NZ Standards Executive.

Clause 8 allows the NZ Standards Executive to delegate any of his or her powers, or the performance of his or her functions or duties, to another employee of the Ministry.

Clause 9 relates to a person who has been delegated the powers of the NZ Standards Executive, or the performance of his or her functions or duties.

Clause 10 requires the NZ Standards Executive to inform responsible Ministers of any proposals to amend, revise, revoke, or replace standards that are cited or incorporated by reference in other legislation.

New Zealand Standards Approval Board

Clause 11 establishes the New Zealand Standards Approval Board (the **Board**) and provides that the Board consists of 5 to 7 members appointed by the Minister.

Clause 12 specifies the functions of the Board.

Clause 13 sets out the matters to which the Board must have regard in undertaking its functions under the Act.

Clause 14 provides that *Schedule 1*, which prescribes additional provisions relating to the Board, its chairperson, and members, has effect.

Standards development committees

Clause 15 provides for standards development committees to be established by the NZ Standards Executive.

Clause 16 provides for membership of standards development committees.

Clause 17 provides for members of a standards development committee to disclose details of any conflict of interest and forbids a member who is personally interested in a matter relating to the work of a committee from voting or taking part in discussions and decisions relating to that matter.

Clause 18 requires the Board and the NZ Standards Executive to notify the Minister as soon as practicable after they become aware of any breach of *clause 17*.

Clause 19 imposes a duty on members of a standards development committee not to disclose information that the member has in his or her capacity as a member.

Clause 20 provides that a committee's work product is the property of the Crown and must be surrendered at the request of the NZ Standards Executive.

Clause 21 provides that members of a standards development committee are not liable for the committee's work or for good faith acts or omissions.

Clause 22 allows the NZ Standards Executive to take out insurance to cover good faith acts or omissions of members of standards development committees.

Fees for New Zealand Standards and cost recovery

Clause 23 makes provision for the NZ Standards Executive to set fees for access to New Zealand Standards and other publications.

Clause 24 provides for the NZ Standards Executive to enter into arrangements with any person to develop a New Zealand Standard and to recover the costs of so doing.

Clause 25 sets out the principles for recovery of costs by means of fees and charges prescribed under *clauses 23 and 24*.

*New Zealand Standards and other Acts,
legislative instruments, and bylaws*

Clause 26 provides for the citation of New Zealand Standards in legislation by title and number.

Clause 27 provides that legislative instruments and bylaws that make provision for goods, services, processes, and practices may make reference to or incorporate a New Zealand Standard.

Clause 28 provides for references in legislation to standards, standard specifications, or New Zealand Standards to be deemed to be references to New Zealand Standards within the meaning of *clause 4*.

Proof of New Zealand Standards

Clause 29 facilitates the proof of New Zealand Standards.

Subpart 3—Accreditation of conformity
assessment bodies

Accreditation Council

Clause 30 provides for the continuation of the Testing Laboratory Registration Council (established under section 3 of the Testing Laboratory Registration Act 1972) as the Accreditation Council.

Clause 31 provides for membership of the Accreditation Council.

Clause 32 specifies the functions of the Accreditation Council.

Clause 33 sets out the powers of the Accreditation Council.

Clause 34 sets out additional powers of the Accreditation Council in relation to land.

Clause 35 re-enacts section 21 of the Testing Laboratory Registration Act 1972 to provide that the Accreditation Council is exempt from income tax.

Clause 36 provides for a local authority or public body to make grants out of its general funds to contribute to the funds of the Accreditation Council.

Restrictions

Clause 37 restricts the use of the phrases “testing laboratory registration”, “testing laboratory accreditation”, and “international accreditation”, and prescribes an offence for breach of the clause.

Clause 38 prohibits any person making statements or representations that are likely to give the impression that a testing laboratory is accredited that is not in fact accredited.

Part 2

Miscellaneous provisions

Clause 39 provides for the Governor-General to make regulations to provide for matters reasonably contemplated as necessary to give full effect to the Act or for its due administration.

Clause 40 disestablishes the Standards Council.

Clause 41 provides that the provisions of the following schedules have effect:

- *Schedule 2*, which relates to the transfer of functions, work, and employees of the Standards Council; and
- *Schedule 3*, which relates to members of the Testing Laboratory Registration Council.

Clause 42 amends the Copyright Act 1994 to clarify that Crown copyright exists in New Zealand Standards.

Clause 43 provides for the consequential amendments in *Schedule 4* to have effect.

Clause 44 provides for the repeal of the Standards Act 1988 and the Testing Laboratory Registration Act 1972.

Hon Craig Foss

Standards and Accreditation Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Standards and Accreditation Act **2014**.

2 Commencement

- (1) This Act comes into force on a date or dates to be appointed by the Governor-General by Order in Council, and 1 or more Orders in Council may be made appointing different dates for the commencement of different provisions and for different purposes. 5
- (2) Any provision of this Act that is not already in force on **1 July 2016** comes into force on that date. 10

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—

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- (i) are consistent with international practice; and
- (ii) facilitate trade; and
- (iii) protect the health, safety, and well-being of the public:
- (b) provide for the development, approval, and maintenance of New Zealand Standards: 5
- (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: 10
- (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: 15
- (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 Council** means the Accreditation Council continued under **section 30** 20
- Board** means the New Zealand Standards Approval Board established under **section 11**
- chief executive** means the chief executive of the Ministry
- conformity assessment** is the activity undertaken by conformity assessment bodies 25
- conformity assessment bodies** includes testing laboratories, inspection bodies, and certification bodies
- consensus** means—
- (a) unanimity; or 30
 - (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 35

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 5
- (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 10

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 15

standard—

- (a) means a specification relating to goods, services, processes, or practices approved or adopted by a standards organisation; and 20
- (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 40** of this Act

standards development committee means a committee established by the NZ Standards Executive under **section 15** 25

standards organisation means—

- (a) the NZ Standards Organisation;
- (b) an international, national, or regional organisation with functions similar to the NZ Standards Organisation 30

testing means determining, in whole or in part, the composition or physical properties of a substance or product, calibrating a piece of equipment, or determining the ability of any substance, product, or piece of equipment to satisfy particular requirements 35

testing laboratory includes the equipment, facilities, staff, records, procedures, and places used in testing.

- (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 5
 - (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 10
 - (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) is otherwise directly or indirectly personally interested in the matter; but 15
- (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 20
 - (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 25
 - (B) the benefit or interest of the general public; or
 - (iv) if his or her personal interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence him or her in carrying out his or her responsibilities under this Act. 30

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.

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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: 10
- (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: 15
- (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): 20
- (e) to establish and maintain a work programme for the development, maintenance, and review of New Zealand Standards:
- (f) to manage the processes for—
 - (i) the formation of standards development committees: 25
 - (ii) the development of draft standards:
 - (iii) the review and revision of existing standards:
- (g) to enter into arrangements to develop New Zealand Standards: 30
- (h) 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: 35

- (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: 5
 - (i) to make arrangements for public access to standards:
 - (j) 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: 10
 - (k) to advise relevant Ministers of proposals to amend, revise, archive, or replace standards that are cited in legislation:
 - (l) to set fees for obtaining copies of (including online access to) New Zealand Standards and other standards publications: 15
 - (m) to establish and maintain an interests register for the purpose of **section 17**:
 - (n) to perform any other functions conferred under this Act or any other enactment. 20
 - (2) In performing the functions referred to in **subsection (1)(a) to (j)**, the NZ Standards Executive must—
 - (a) act independently; and
 - (b) have regard to— 25
 - (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)(n)**, the NZ Standards Executive must act under the direction of the Minister and the chief executive. 30
- 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. 35
 - (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 5
 - (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 10
 - (g) continues according to its tenor despite any change in the person holding office as the NZ Standards Executive. 15
- 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: 20
 - (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. 25
 - (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. 30
- Compare: 2011 No 4 s 73

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

- (1) If any New Zealand Standard is cited or incorporated by reference in any Act or legislative instrument, the NZ Standards Executive must inform the responsible Minister of every proposal to amend, revise, revoke, or replace the standard before the proposal is referred to the Board for consideration. 35

- (2) In **subsection (1), responsible Minister**, in relation to an Act or a legislative instrument, means the Minister of the Crown for the time being responsible for the administration of that enactment.

New Zealand Standards Approval Board 5

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**. 10

12 Functions of Board

- (1) The functions of the Board are to—

(a) approve or decline members of standards development committees:

(b) approve or decline proposed new New Zealand Standards: 15

(c) adopt or decline to adopt other standards organisations' standards as New Zealand Standards:

(d) approve or decline modifications to New Zealand Standards: 20

(e) archive New Zealand Standards:

(f) revoke New Zealand Standards:

(g) advise the Minister on any matter referred to the Board by the Minister:

(h) advise the Minister on the currency of New Zealand Standards, and on priority areas for the development and review of New Zealand Standards: 25

(i) 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)**. 30

- (3) If the Board declines to approve members, standards, or modification of standards under **subsection (1)(a) to (d)**, it must provide the NZ Standards Executive with reasons in writing for its decision. 35

13 Considerations for Board

- (1) In undertaking 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 5
 - (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 10
 - (ii) knowledge and experience of the sector or sectors most likely to use the standard.
- (2) In undertaking functions under **section 12(1)(b), (c), and (d)**, the Board must— 15
- (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 20
 - (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 25
 - (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 30
 - (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 35
 - (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 5
- (iii) the proposed standard or modification will not create unnecessary obstacles to international trade and investment. 10
- (3) In undertaking functions under **section 12(1)(g)**, 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. 15

14 Further provisions relating to Board

The provisions of **Schedule 1** apply to the Board.

Standards development committees

- 15 Standards development committees** 20
- (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: 25
- (d) advise on the content of standards:
- (e) consider and propose amendments to existing standards. 30
- (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: 35

- (c) appoint members of each standards development committees in accordance with **section 16**.

16 Membership of standards development committees

- (1) The NZ Standards Executive must—
- (a) propose persons¹ to be members of each standards development committee; and 5
- (b) refer those proposals to the Board for approval.
- (2) If the NZ Standards Executive refers a proposal for a person to be a member of a standards development committee to the Board, the Board must— 10
- (a) approve the proposal; or
- (b) decline the proposal with reasons.
- (3) The NZ Standards Executive may appoint any person to be a member of a standards development committee whose membership has been approved by the Board. 15

17 Duty to disclose conflict of interest

- (1) A member who is personally interested in a matter relating to the work of any standards development committee of which he or she is a member must disclose details of the nature and extent of the interest (including any monetary value of the interest)— 20
- (a) to the chairperson of the Board; and
- (b) in an interests register kept by the NZ Standards Executive.
- (2) Disclosure under **subsection (1)** must be made as soon as practicable after the member becomes aware that he or she is personally interested. 25
- (3) A member who is personally interested in a matter relating to the work of a standards development committee must not vote or take part in any discussion or decision of the committee relating to the matter. 30

¹ For example, representatives from industry bodies, consumer groups, NGOs, and state sector agencies, experts from the relevant sector, academics, and other suitable persons.

18 Obligation to disclose interest

- (1) The Board and the NZ Standards Executive must notify the Minister of a failure to comply with **section 17**, and of the acts affected, as soon as practicable after becoming aware of the failure. 5
- (2) Except as provided in **subsection (3)**, a failure to comply with **section 17** does not affect the validity of an act or matter.
- (3) **Subsection (2)** does not limit the right of any person to apply for judicial review.

19 Duty not to disclose information 10

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— 15

- (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. 20

20 Standards development committees' work product

- (1) A standards development committee's work product is the property of the Crown and must, on demand, be turned over to the NZ Standards Executive. 25
- (2) In this section, **work product**, in relation to a standards development committee, means information prepared or collected by a member or members of the committee as a part of the committee's responsibilities or activities. 30

21 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. 35

- (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— 5
- (a) the liability of any person that is not a civil liability:
 - (b) the right of any person to apply for judicial review.
- 22 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— 10
- (a) in bad faith:
 - (b) not in the performance or intended performance of the committee's functions. 15
- (2) In this section, **to effect insurance** includes to pay, whether directly or indirectly, the costs of the insurance.
- Fees for New Zealand Standards and cost recovery*
- 23 Setting fees for standards** 20
- (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— 25
- (a) developing, approving, maintaining, and providing access to New Zealand Standards and other standards-related publications:
 - (b) maintaining linkages with other standards organisations: 30
 - (c) responding to inquiries about New Zealand Standards.
- (3) The fees set by the NZ Standards Executive under **subsection (1)** may reflect— 35
- (a) the commercial arrangements entered into by the NZ Standards Executive with third parties (for example, royalties and licence fees payable in respect of intellec-

- tual property incorporated in New Zealand Standards);
and
- (b) any arrangements made under **section 24**; 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). 5
- 24 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— 10
 - (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— 15
 - (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 20
 - (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. 25
- 25 Principles of cost recovery**
- In setting the amount of fees or charges under **sections 23 and 24**, the NZ Standards Executive must have regard to the following principles: 30
- 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: 35

- Efficiency*
- (b) costs should generally be allocated and recovered in order to ensure that maximum benefits are delivered at minimum cost:
- Justification* 5
- (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* 10
- (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* 15
- (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 over-arching objectives for New Zealand Standards. 20

*New Zealand Standards and other Acts,
legislative instruments, and bylaws*

26 Citation of New Zealand Standards

- (1) A New Zealand Standard may be cited in any enactment by the title and number given to it by the NZ Standards Executive. 25
- (2) If a New Zealand Standard is cited in an enactment 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 enactment in which it is cited was passed or made. 30

Compare: 1988 No 5 s 23

- 27 Legislative instruments or bylaws may be made by referring to or incorporating New Zealand Standards**
To avoid doubt, legislative instruments or bylaws made under any Act may be made by referring to or 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. 5
Compare: 1965 No 59 ss 26, 27; 1988 No 5 s 22

- 28 References to New Zealand Standards in other enactments**
A reference in any other Act or in a legislative instrument or bylaw 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. 10
Compare: 1988 No 5 s 24 15

Proof of New Zealand Standards

- 29 Proof of New Zealand Standards**
- (1) The fact that any standard or specification 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. 20
 - (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. 25
 - (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

30 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**). 5
- (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. 10
- (4) The members of the Accreditation Council are the board for the purposes of the Crown Entities Act 2004. 15
- Compare: 1972 No 36 s 3

31 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— 20
- (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: 25
 - (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). 30
- (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) The 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; 2005 No 39 Schedule 2 cls 6, 7

32 Functions of Accreditation Council 5

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 an accreditation scheme for conformity assessment bodies (except for certification bodies) that comply with that practice; and 10
- (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 15
- (e) to act as New Zealand's good laboratory practice compliance monitoring authority; and
- (f) if the Council chooses, to provide certification services; and 20
- (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

33 Powers of Accreditation Council generally 25

- (1) The Accreditation Council may—
- (a) provide, subject to such conditions as the Council thinks fit, for the accreditation of conformity assessment bodies (except certification bodies) that—
 - (i) apply for accreditation; and 30
 - (ii) in the Council's opinion, comply with the requirements prescribed 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 35

- comply with all or any of the requirements or conditions prescribed 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 5
 - (ii) the maintenance of any records that, in the opinion of the Council, are necessary to establish that control is maintained: 10
 - (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 15
 - (ii) the services are services for which the 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: 20
 - (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: 25
 - (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: 30
 - (j) collect and disseminate information relating to conformity assessment, including the publication of reports, pamphlets, books, journals, and other publications: 35
 - (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) solicit and accept any money, land, or other property, from any person, organisation, local authority, or public body by way of grant, subsidy, donation, gift, subscription, or otherwise for use by the Council in the exercise of its functions: 5
 - (o) extend to any person, organisation, local authority, or public body, from which it accepts any money, land, or other property under **paragraph (n)**, any concessions or benefits that the Council thinks appropriate: 10
 - (p) establish training centres, consultancies, and other establishments considered necessary for the efficient exercise of its functions: 15
 - (q) charge fees in respect of accreditation under this Act and of any other services provided:
 - (r) carry out any other powers and duties that are conferred on it by this Act or any other enactment. 20
- (2) The 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

34 Powers of Accreditation Council with respect to property

- (1) Any land held by the Accreditation Council in trust for a special purpose may, despite the terms of the trust, be sold or exchanged in accordance with this section. 25
- (2) Any proceeds of any sale referred to in **subsection (1)**, or any land or money obtained in any exchange referred to in **subsection (1)**, are subject to the same or similar trusts as the land disposed of. 30
- (3) Nothing in this Act or any other Act authorises the sale or exchange of any land granted to the Accreditation Council, by the Crown or under any Act, as an endowment. 35
Compare: 1972 No 36 s 14

- 35 Accreditation Council exempted from income tax**
 The Accreditation Council is exempt from payment of income tax.
 Compare: 1972 No 36 s 21
- 36 Contributions to Accreditation Council's funds** 5
 A local authority or public body may (without any further authority than under this section) make grants out of its general funds to the Accreditation Council to provide funds for the performance of the Council's functions in any amount the authority or body thinks appropriate. 10
 Compare: 1972 No 36 s 24
- Restrictions*
- 37 Restriction on use of certain words in certain circumstances**
- (1) Except as authorised by the Governor-General by Order in Council, no person may operate under a name that contains any of the following phrases (or an abbreviation of them):
 (a) testing laboratory registration:
 (b) testing laboratory accreditation:
 (c) international accreditation. 20
- (2) A registering authority acting under any Act may refuse to register a person under a name if, in the registering body's opinion, the use by that person of that name, or of any word in that name, would breach **subsection (1)**.
- (3) **Subsection (1)** does not apply to the continued and uninterrupted use by an association or a person of a name that was in use in New Zealand immediately before the commencement of the Testing Laboratory Registration Act 1972 whether by that association or person, or by its predecessor in business. 25
- (4) A person who breaches **subsection (1)** commits an offence and is liable on conviction to a fine not exceeding \$5,000. 30
 Compare: 1972 No 36 s 29

38 Statements or representations about conformity assessment body

- (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 testing laboratory that is not accredited under this Act is accredited. 5
- (2) A person who breaches **subsection (1)** commits an offence and is liable on conviction to a fine not exceeding \$5,000. 10
Compare: 1972 No 36 s 30

**Part 2
Miscellaneous provisions**

39 Regulations

- The Governor-General may, by Order in Council, make regulations providing for any matter that is contemplated by this Act as necessary— 15
- (a) for giving it full effect; or
- (b) for its administration.

40 Disestablishment of Standards Council

The Standards Council (continued under section 3 of the Standards Act 1988) is disestablished. 20

41 Transitional provisions

- (1) The transitional provisions in **Schedule 2** apply to the transfer of the functions, work, and employees of the Standards Council. 25
- (2) The transitional provisions in **Schedule 3** relate to members of the Testing Laboratory Registration Council.

42 Amendment to Copyright Act 1994

- (1) This section amends the Copyright Act 1994.
- (2) After section 27(1B), insert: 30
- “(1C) Subsection (1A) does not affect copyright in any New Zealand Standard (as that term is defined in the Standards and Accreditation Act **2014**).”

43 Consequential amendments

The enactments listed in **Schedule 4** are amended in the manner set out in that schedule.

44 Repeals

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

s 14

Schedule 1
Provisions relating to Board, chairperson,
and members

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1 Appointment of Board

- (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. 5
- (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— 10
 - (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. 15

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— 20
 - (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 25
 - 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)**—
- (a) must be published at least twice in a daily newspaper circulating in each of the cities of Auckland, Hamilton, Wellington, Christchurch, and Dunedin; and
 - (b) may be published in any other media, and on any other occasions, that the Minister thinks appropriate. 5
- 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. 10
- (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. 15
- 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— 20
- (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** 25
- (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. 30
- 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 5
 - (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**. 10
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). 15
- (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. 20
- (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** 25
- (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. 30
- (3) The Minister must notify the resignation in the *Gazette* as soon as practicable after receiving the notice.
Compare: 2005 No 39 Schedule 2 cl 7

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)**. 5

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 10
- (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). 15

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). 20
- (2) The notice of resignation must state the date on which the resignation takes effect.
- (3) The Minister must notify the resignation in the *Gazette* as soon as practicable after receiving the notice.

12 Removal of chairperson of Board 25

- (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. 30
- (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. 5

Procedure of Board

- 14 Procedure of Board**
 The Board may, subject to **clauses 15 to 18**, regulate its own procedure. 10
- 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. 15
- (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. 20
- (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** 25
- (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. 30
- (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
- (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— 10
- (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. 15
- (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. 20
- (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** 25
- 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— 30
- (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. 35

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. 5
- (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 10

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. 15

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. 20

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. 25

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. 30

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)—

5

- (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

10

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—

15

- (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.

20

- (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.

25

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)—

30

- (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.

35

- (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
- (5) In this clause, **matter** means the Board's performance of its functions under this Act. 10
Compare: 2004 No 115 ss 62(3), 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. 15
- (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** 20
- (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 25
- (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 30
- 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 5

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**: 10
 - (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. 15

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. 20
- (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. 25
- (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 30

- (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. 5
-

Schedule 2**s 41(1)****Transition from Standards Council****1 Interpretation**

In this schedule, **Standards Council** includes Standards NZ.

2 Assets, records, liabilities, and debts of Standards Council 5

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

3 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. 15

4 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. 20
- (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. 25
- (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; 30
 - or
 - (b) continue a committee of the Standards Council as a standards development committee under this Act.

- (4) To avoid doubt, **sections 15 to 22** apply, from the date this Act comes into force, to any committee continued under **subclause (3)(b)**.

5 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.

6 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.

5

7 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.

10

(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.

15

(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.

20

8 Transfer of contracts to Ministry

(1) This clause applies to a contract (other than an employment agreement) that—

(a) was made between the chief executive of the Standards Council and another person; and

25

(b) relates solely to a function or power of the chief executive 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.

30

(2) On and after the commencement of this Act,—

(a) the contract must be treated as if the chief executive were the party to the contract instead of the chief executive of Standards NZ or the Standards Council (as the case requires); and

35

- (b) unless the context otherwise requires, every reference in the contract to the chief executive of Standards NZ or the Standards Council is to be read as a reference to the chief executive.
-

Schedule 3**s 41(2)****Transition from Testing Laboratory
Registration Council****1 Members appointed by Minister**

- (1) Any person who was a member of the Testing Laboratory Registration Council immediately before the commencement of this Act 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. 5
- (2) **Subclause (1)** is subject to section 32(3) of the Crown Entities Act 2004. 10

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 Act 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 44(2)** of this Act. 15

Schedule 4

Consequential amendments

s 43

Part 1

Amendments to Acts

Animal Products Act 1999 (1999 No 93)

5

In section 161(5)(ivb), replace “Testing Laboratory Registration Act 1972” with “Standards and Accreditation Act **2014**”.

Biosecurity Act 1993 (1993 No 95)

In section 142S(3), replace “Sections 22 to 25 of the Standards Act 1988” with “**Sections 26 to 29** of the Standards and Accreditation Act **2014**”.

10

Building Act 2004 (2004 No 72)

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

Replace section 119(5) with:

15

“(5) In this section, **NZ Standards Organisation** has the meaning given to it in **section 4(1)** of the Standards and Accreditation Act **2014**.”

In section 413, replace “sections 22 to 25 of the Standards Act 1988” with “**sections 26 to 29** of the Standards and Accreditation Act **2014**”.

20

Civil Aviation Act 1990 (1990 No 98)

In section 36(9), replace “sections 22 to 25 of the Standards Act 1988” with “**sections 26 to 29** of the Standards and Accreditation Act **2014**”.

25

Climate Change Response Act 2002 (2002 No 40)

In section 177, replace “sections 22 to 25 of the Standards Act 1988” with “**sections 26 to 29** of the Standards and Accreditation Act **2014**”.

Part 1—*continued***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— 5
 - “(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.” 10

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 items relating to the Standards Council and the Testing Laboratory Registration Council. 15

Dairy Industry Restructuring Act 2001 (2001 No 51)

In Schedule 5E, replace clause 10 with:

- “**10 Standards and Accreditation Act 2014**
Nothing in this schedule affects the application of **sections 26 to 29** of the Standards and Accreditation Act **2014**.” 20

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 **2014**”.

Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72) 25

In section 155, replace “sections 22 to 25 of the Standards Act 1988” with “**sections 26 to 29** of the Standards and Accreditation Act **2014**”.

Part 1—*continued***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 **2014**”.

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 **2014**)”.

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

In Schedule 3, replace the item relating to the Testing Laboratory Registration Act 1972 with:

Standards and Accreditation Act **2014**: Testing laboratory registration, testing laboratory accreditation, and international accreditation
section 37

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 **2014**”.

Health Act 1956 (1956 No 65)

In section 69ZY(2)(a)(i), replace “the Testing Laboratory Registration Act 1972” with “**Part 2** of the Standards and Accreditation Act **2014**”.

Replace section 112ZO with:

“**112ZO Application of Standards and Accreditation Act 2014** 20
Sections 112ZG to 112ZM do not affect the application of **sections 26 to 29** of the Standards and Accreditation Act **2014**.”

Human Tissue Act 2008 (2008 No 28)

In Schedule 5, replace clause 9 with:

“**9 Application of Standards and Accreditation Act 2014** 25
not affected
Clauses 1 to 8 do not affect the application of **sections 26 to 29** of the Standards and Accreditation Act **2014**.”

Part 1—*continued***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”. 5

In section 165(9), replace “sections 22 to 25 of the Standards Act 1988” with “**sections 26 to 29** of the Standards and Accreditation Act **2014**”.

Legislation Act 2012 (2012 No 119)

10

In the heading to section 57, replace “**Standards Act 1988**” with “**Standards and Accreditation Act 2014**”.

In section 57, replace “sections 22 to 25 of the Standards Act 1988” with “**sections 26 to 29** of the Standards and Accreditation Act **2014**”. 15

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”. 20

In section 452(9), replace “sections 22 to 25 of the Standards Act 1988” with “**sections 26 to 29** of the Standards and Accreditation Act **2014**”.

Medicines Act 1981 (1981 No 118)

25

In Schedule 3, in the heading to clause 8, replace “**Standards Act 1988**” with “**Standards and Accreditation Act 2014**”.

In Schedule 3, clause 8, replace “sections 22 to 25 of the Standards Act 1988” with “**sections 26 to 29** of the Standards and Accreditation Act **2014**”. 30

Part 1—*continued***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 **2014**”.

Official Information Act 1982 (1982 No 156)

In Schedule 1, insert in their appropriate alphabetical order: 5

“Accreditation Council

“NZ Standards Approval Board”.

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

Ombudsmen Act 1975 (1975 No 9) 10

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

“Accreditation Council”.

In Schedule 1, Part 2, repeal the items relating to the Standards Council and Testing Laboratory Registration Council.

Public Bodies Contracts Act 1959 (1959 No 98) 15

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

Accreditation Council

Standards and Accreditation Act
2014

In Schedule 1, Part 2, repeal the items relating to the Standards Council and the Testing Laboratory Registration Council.

Radiocommunications Act 1989 (1989 No 148)

Replace section 133(3) with: 20

“(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 **2014**.”

In Schedule 8, replace clause 8 with: 25

“**8 Application of Standards and Accreditation Act 2014 not affected**

Clauses 1 to 7 do not affect the application of **sections 26 to 29** of the Standards and Accreditation Act **2014**.”

Part 1—*continued***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 26 to 29** of the Standards and Testing Accreditation Act **2014**”.

Part 2

5

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 **2014**”.

10

Corrections Regulations 2005 (SR 2005/53)

In regulation 3, definition of **specified laboratory**, paragraph (a), replace “Testing Laboratory Registration Act 1972” with “Standards and Accreditation Act **2014**”.

15

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

In regulation 3, definition of **accredited laboratory**, replace “Testing Laboratory Registration Council” with “Accreditation Council”.

20

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

In regulation 3(1), definition of **competent organisation**, paragraph (b), replace “Testing Laboratory Registration Act 1972” with “Standards and Accreditation Act **2014**”.

25

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”.

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Part 2—*continued***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) 5

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) 10

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

Weights and Measures Regulations 1999 (SR 1999/373)

Replace regulation 16(c) with:

“(c) the Accreditation Council.”. 15