

Questions and answers

Consumer Affairs

Professional Engineers Registration Act 2019

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Professional Engineers Registration Act 2019 (passed 27/8/2019)

When will we hear more about the implementation of the Professional Engineers Registration Scheme?

- Planning for the implementation of the scheme is currently underway. Once this has progressed there will be communication from Consumer Affairs Victoria to the public and engineering sector.
- There is a commitment to ensure all stakeholders are notified of the plan and timing of consultation and implementation.
- It is anticipated that information will be provided on public consultation and planned implementation of the scheme more generally before the end of the year.

Why has the government introduced a registration scheme for engineers?

- Despite the complex and important work engineers perform, and their pivotal role in ensuring public safety, most engineers are not required to hold any kind of formal government registration or licence.
- To rectify this, the Victorian Government has introduced a mandatory, statutory registration scheme for engineers in Victoria, as well as working with other jurisdictions to develop a nationally consistent registration scheme. The Victorian scheme ensures certain engineering services are provided by engineers who have a minimum level of qualification, experience and professional development, or are supervised by a professional registered engineer.
- The scheme will enable the community and government to purchase engineering services with greater confidence.

Who will need to be registered?

- You will need to be registered if you meet all three of the following conditions:
 - you provide 'professional engineering services'
 - these services fall within one of the five areas of engineering: civil, structural, fire safety, electrical or mechanical engineering
 - your work does not fall within one of the two broad exemptions:
 - working under direct supervision
 - working to a prescriptive standard, - which is a document that contains procedures or criteria for engineering services that do not require scientifically-based calculations.

The registration of engineers will be staged with five categories registered initially:

- Civil
- Structural
- Mechanical

- Electrical
- Fire-safety

The scheme has been designed to be extended over time to incorporate other areas of engineering, but this will be determined after the five areas of engineering identified have been registered

What are the roles of the three government regulators who will jointly administer (co-regulate) the scheme?

- The Business Licensing Authority (BLA) will:
 - determine applications for registration and renewal (probity checks inclusive of criminal history checks and matters relating to fitness to practice)
 - determine applications for endorsement as a registered building practitioner under the *Building Act 1993*, on the basis of a report by the Victorian Building Authority authorising a registered professional engineer to engage in the building industry
 - approve and revoke the approval of assessment schemes
 - maintain a Register of Professional Engineers, including processing changes following disciplinary action (with assistance from CAV and VBA)
- Consumer Affairs Victoria will:
 - provide the 'back office' support to the BLA
 - monitor compliance with the Professional Engineers Registration Act 2019
 - investigate complaints and apply to the Victorian Civil and Administrative Tribunal to discipline engineers in relation to an engineer's registration
 - prosecute offences under the Act.
- The Victorian Building Authority will:
 - consider applications for endorsement referred by the BLA to determine whether a registered professional engineer can engage in the building industry and report to the BLA
 - investigate and discipline engineers in relation to an engineer's endorsement under the *Building Act 1993*.

What will BLA approved assessment entities do? (Professional associations/ bodies)

The assessment entities will assess an engineers' professional eligibility inclusive of:

- qualifications
- experience
- continuing professional development

When will engineering professional associations be able to start to apply to become assessment entities and what will the process include?

Once this process has been fully determined all stakeholders will receive notification of the process and how to apply.

What are the next steps?

- Consumer Affairs Victoria (CAV) will commence development of regulations and a supporting Regulatory Impact Statement. This will be informed by a public consultation process.
- CAV and the Victorian Building Authority (VBA) will provide more detailed information about the engineers' registration scheme and the transitional arrangements to inform stakeholders of all relevant changes coming into effect.
- A Code of Conduct will be developed in consultation with industry and approved by the Director of CAV. Registered engineers will have to comply with the Code of Conduct.

When will the scheme come into effect?

- The Professional Engineers Registration Act was passed in the Victorian Parliament on 27 August 2019. Consumer Affairs Victoria will commence development of regulations and a supporting Regulatory Impact Statement. This will be informed by a public consultation process. Additionally, a Code of Conduct will be developed in consultation with industry and approved by the Director of CAV.
- The scheme is due to commence by 1 July 2021 using a staged registration process. It is envisaged the full scheme will be implemented by mid-2024.
- The detailed schedule for implementation will be included in the transitional regulations to be developed by Consumer Affairs Victoria.

Is registration a requirement in other states?

- Queensland currently has the only comprehensive registration scheme for professional engineers in Australia. The Victorian scheme has been largely modelled on the Queensland scheme to promote national consistency.
- Some other jurisdictions have also announced they will develop consistent, comprehensive professional engineers' registration schemes, including the Australian Capital Territory and Western Australia. New South Wales will also introduce a registration scheme, although the scope of the scheme is currently being determined.

Implementation

What are the other registration schemes Consumer Affairs Victoria and Business Licensing Authority currently oversee?

- Consumer Affairs Victoria and the Business Licensing Authority currently oversee the licensing or registration schemes for the following professions:
 - Estate Agents

- Conveyancers
- Motor Car Traders
- Second-hand Dealers and Pawnbrokers
- Rooming House Operators
- Sex Work Service Providers

What activities are prohibited under the Act?

- The Act prohibits a person from providing professional engineering services in an area of engineering covered by the registration scheme unless they are registered, or they are being supervised by a registered professional engineer.
- Further, the Act explicitly protects the title 'professional engineer'. It will also be an offence for a person who is unregistered to represent that they can provide professional engineering services, that they are an endorsed building engineer or that they are a non-practising professional engineer.

Will the engineers scheme lead to vexatious complaints?

- Like any regulatory scheme, there is a risk that members of the public make complaints that may be perceived as being vexatious to a regulator or an engineer. However, when complaints are made, all regulators need to make assessments to determine whether a formal investigation is warranted. This is standard practice across all regulated industries.
- It is important to ensure consumers of engineering services can raise concerns so genuine concerns can be addressed. CAV has extensive experience investigating complaints, and only proceeds further if evidence of a problem exists.
- Further, CAV will have access to engineering expertise to assess cases. Determining whether this evidence exists is an important function of the investigation process, and the powers CAV has been granted will assist in determining the validity of complaints swiftly and effectively.

Does the Act provide for criminal enforcement against engineers who practise poorly?

- No, offences in the Act relate to unregistered practice, representing that a person can practice without being registered and providing false or misleading information. Poor quality practice will be regulated through civil disciplinary processes rather than criminal prosecutions.
- Other remedies currently available to the public for poor engineering work, such as protections under the Australian Consumer Law and common law civil remedies, will not be affected by the registration scheme.

How will engineers be involved in the investigation and discipline of their fellow engineers?

- Engineers will be involved from start to finish in the assessment and regulation of the profession.

- One or more people with engineering expertise will be appointed as members of the BLA to oversee the registration of professional engineers. The BLA will also be able to seek assistance and advice from the Victorian Chief Engineer.
- In addition, the BLA will accredit professional engineering associations as “Assessment Entities”. They will be responsible for advising the BLA as to whether an applicant for registration holds the appropriate qualifications and post graduate experience.

Regulation, enforcement and registration

Why is registration state-based rather than being national?

- Under the Commonwealth Constitution, the federal Parliament does not have a general power to require individuals to hold occupational licences.
- At this stage, Queensland and Victoria are the only Australian jurisdictions to have engineer registration schemes in place or proposed. The design of Victoria’s engineers registration scheme has been modelled on Queensland’s scheme to facilitate mutual recognition and promote national consistency.
- The Victorian Government will work with other states to ensure an engineer has to only be assessed once and this assessment enables recognition of their registration in any state with a similar scheme.

Will mutual recognition be available?

- Mutual recognition will be available under mutual recognition legislation for engineers registered in Queensland and New Zealand. This means engineers registered in one of those two jurisdictions will be entitled to registration in Victoria without needing to demonstrate qualifications and experience again (and vice versa).
- Victoria and Queensland have started discussions about establishing automatic mutual recognition for engineers.
- Should other states establish consistent registration schemes, the Victorian Government will seek similar arrangements. These arrangements have already been achieved for other professions and trades.

What is co-regulation and how will it work?

- Co-regulation describes a situation where industry is involved in the development and administration of a regulatory scheme, with government providing the legislative backing to enforce the requirements under the scheme. The proposed registration scheme for engineers would be implemented under a co-regulatory model.
- The co-regulatory model will enhance the registration of engineers as it leverages expertise from both the engineering profession and government. For example, while compliance and enforcement will remain the responsibility of the government, they will be able to draw on the expertise of engineers while conducting investigations.

What is the registration process going to be?

- Under the co-regulatory model, there will be two steps to the registration process for the applicant.

1. The applicant will seek assessment of their qualifications, experience and continuing professional development in their nominated area of engineering by an assessment entity. This may incur a fee.
 2. The applicant will seek registration with the Business Licensing Authority (BLA) by submitting:
 - an application as well as any prescribed information
 - a report by an assessment entity regarding the engineer's qualifications and competencies
 - the prescribed fee.
- An engineer will also be required to renew their registration with the BLA every three years and pay their renewal fees.
 - The BLA will make an assessment as to whether the person is eligible to be registered. If satisfied the person is eligible for registration, the BLA will issue a certificate to the applicant, which must then be produced on demand to certain persons, including inspectors and consumers of engineering services.
 - In addition, if an engineer wishes to be engaged in the building industry, they will be required to hold an endorsement.

How much will registration cost?

- A regulatory impact statement (RIS) analysing fees needs to be undertaken before fees can be set.
- The fees RIS will be completed by Consumer Affairs Victoria and there will be a public consultation process prior to the scheme's commencement. The government believes the benefits for consumers and engineers will justify the registration costs under the scheme.

Why is the registration period shorter (three years rather than five years)?

- Registration will last for three years to align with the continuing professional development requirements.