

Professional Engineers (Qualifications, Experience and Competencies) Determination 2024

Disallowable instrument DI2024–32

made under the

Professional Engineers Act 2023, s 83 (Qualifications, experience and competencies for professional engineers)

EXPLANATORY STATEMENT

This explanatory statement relates to the *Professional Engineers (Qualifications, Experience and Competencies) Determination 2024* as presented to the Legislative Assembly. It has been prepared to assist the reader of the instrument. It does not form part of the instrument and has not been endorsed by the Assembly.

The Statement must be read in conjunction with the instrument. It is not, and is not meant to be, a comprehensive description of the instrument. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Section 83 of the *Professional Engineers Act 2023* (the *Act*) permits the Minister to determine the qualifications, experience and competencies that an individual must have to be eligible to be a professional engineer. The determination under section 83 of the *Act* is a disallowable instrument and must be presented to the Legislative Assembly within 6 sitting days after its notification pursuant to section 64 of the *Legislation Act 2001* (the *Legislation Act*).

The purpose of this instrument is to determine the qualifications, experience and competencies required for an individual to be eligible to be registered as a professional engineer.

This instrument prescribes qualifications, experience and competencies for new registrations.

Regulatory Impact Statement (RIS)

Section 34 of the *Legislation Act* provides that if a proposed subordinate law or disallowable instrument (the proposed law) is likely to impose appreciable costs on the community, or a part of the community, then, before the proposed law is made,

the Minister administering the authorising law must arrange for a RIS to be prepared for the proposed law.

A RIS is not required in this instance as this instrument does not impose appreciable costs on the community or part of the community. The *Act* establishes the ACT's professional engineers registration scheme, the requirement to be registered and the obligations on professional engineers. This instrument prescribes the qualifications, experience and competencies that are one part of the eligibility criteria for registration.

Human Rights

The Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) terms of reference require consideration of human rights impacts, among other matters.

Section 27B (1) of the *Human Rights Act 2004* (HRA) expressly provides that the practice of a trade, occupation or profession may be regulated by law. Determining eligibility criteria such as qualifications, experience and competencies is common practice in occupational registration schemes.

A detailed human rights assessment is contained in the [Explanatory Statement](#) to the *Act* including consideration of the impact of the introduction of a professional engineers registration scheme in the ACT on section 27B of the HRA.

Any engagement with or limitation on the right to work in section 27B of the HRA is considered reasonable and justifiable.

Clause Notes

Clause 1 names the instrument the Professional Engineers (Qualifications, Experience and Competencies) Determination 2024.

Clause 2 provides that this instrument commences on 6 March 2024.

Clause 3 contains the declaration that the qualifications, experience and competencies an individual must have to be eligible to be a professional engineer are set out in Schedule 1 of the instrument.

Clause 4 disapplies the requirement in section 47 (5) of the *Legislation Act 2001*. Section 47 (5) provides that the text of an instrument applied or incorporated as in force at a particular time in a disallowable instrument is taken to be a notifiable instrument made under the relevant instrument, and therefore must be published on the Legislation Register.

This instrument incorporates the Washington Accord. The Washington Accord is an international agreement between bodies responsible for accrediting engineering degree programmes.

Originally signed in 1989, the Washington Accord, is a multi-lateral agreement between bodies responsible for accreditation or recognition of tertiary-level

engineering qualifications within their jurisdictions who have chosen to work collectively to assist the mobility of professional engineers.

The Washington Accord is specifically focused on academic programmes which deal with the practice of engineering at the professional level.

The Accord acknowledges that accreditation of engineering academic programmes is a key foundation for the practice of engineering at the professional level in each of the countries or territories covered by the Accord.

The Accord outlines the mutual recognition, between the participating bodies, of accredited engineering degree programmes. It also establishes and benchmarks the standard for professional engineering education across those bodies.

Engineers Australia is the Australian signatory to the Washington Accord.

All other registration schemes for professional engineers in Australia are based on qualifications that are Washington Accord accredited or substantially equivalent to a Washington Accord accredited qualification.

Information about the Washington Accord and its history is available at www.ieagreements.org/accords/washington.

The Commonwealth instruments and other documents incorporated in the determination are used in other engineer registration schemes and other licensing schemes in the ACT. These documents are publicly available as contained in the notes to clause 4.

Schedule 1 contains the determined qualifications, experience and competencies and outlines:

1. what constitutes an assessment report which contains the assessment of an individual's qualifications, experience and competencies undertaken by an approved assessment entity
2. the qualifications, experience and competencies that an individual must have to be eligible to be registered as a professional engineer in the area(s) of engineering of which registration is being sought;
3. the additional qualifications and experience an applicant must have to be eligible to be a professional engineer who provides professional engineering services in the building and construction industry; and
4. the alternative pathways for being deemed to have meet the determined qualifications and experience for eligibility to be a professional engineer.

The Schedule is set out in 6 parts.

Part 1 provides guidance on the assessment of an individual's qualifications, experience and competencies undertaken by an assessment entity approved under

section 32 of the Act. It also provides guidance on the form of a report in accordance with section 16 (2) (e) of the Act.

Part 2 contains the qualifications an individual must have to be eligible to be registered as a professional engineer in the area(s) of engineering of which registration is being sought.

Part 3 contains the experience an individual must have to be eligible to be registered as a professional engineer in the area(s) of engineering of which registration is being sought.

Part 4 contains the competencies an individual must have to be eligible to be registered as a professional engineer in the area(s) of engineering of which registration is being sought.

Part 5 contains the additional qualifications and experience an individual must have to be eligible to provide professional engineering services in the area(s) of engineering for which registration is being sought to the building and construction industry.

An individual must satisfy the qualification, experience and competencies requirements in Parts 2-4 and Part 5 where applicable, to be eligible for registration as a professional engineer in the area(s) of engineering for which registration is being sought.

An individual who does not meet the qualifications in Part 2 and the experience requirements in Part 3 (and Part 5 where applicable) may be assessed by an assessment entity as having the skills and knowledge to provide professional engineering services in the relevant area(s) of engineering for which registration is sought under the alternative pathways outlined in Part 6.

Part 6 outlines the alternative pathways for being deemed as meeting the determined qualifications and experience. There is no alternative pathway for the determined competencies in Part 4. Any individual seeking registration as a professional engineer must satisfy Part 4 to be eligible for registration.

Part 6 also provides guidance for assessment entities on what matters should be considered when assessing under this Part. This alternative method of assessment is designed to support those already working in the industry to continue to do so; and those practitioners who have taken a non-traditional university pathway to becoming an engineer. For example, later career practitioners who may have started with a technical or trade qualification but whom have over many years, through work experience, and other training developed the skills and experience that allows them to perform functions and offer services equivalent to that of an individual who holds the qualifications and experience determined in Parts 2 and 3 respectively. It may also include those who started with an undergraduate degree in Science, Management, Information Technology or Mathematics and have undertaken a post-graduate level qualification specialising in fire safety engineering.