

Engineers Registration Bill 2018

During the development of the engineers registration scheme, the Department of Treasury and Finance has consulted the engineering profession, industry stakeholders and across the public sector through stakeholder meetings, roundtable discussions and the release of a public consultation paper. The consultation process has provided valuable feedback and informed key design aspects of the proposed registration scheme.

The Engineers Registration Bill 2018 is currently being considered by the Victorian Parliament.

There will be further consultation on a number of important elements of the scheme, which will be subject to a regulatory impact statement (RIS). Public consultation and a public RIS process will commence after the Bill passes the Upper House.

For any questions that are not resolved through the Frequently Asked Questions, queries can be sent to information@dtf.vic.gov.au.

Frequently asked questions

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1. An engineers registration scheme for Victoria

1.1 Why is the Government proposing to introduce a registration scheme for engineers?

The Victorian Labor Government made a commitment to work with relevant stakeholders on the introduction of a mandatory, statutory registration scheme, and work with other jurisdictions to develop a nationally consistent registration scheme for engineers.

An engineers registration scheme is part of the Government’s plan for infrastructure, which has involved:

- the establishment of Infrastructure Victoria to prioritise infrastructure projects and coordinate funding; and
- the establishment of the Office of Projects Victoria and the appointment of the Chief Engineer to equip Victoria with a specialised infrastructure delivery agency to ensure the successful delivery of major infrastructure projects.

Victoria continues to invest \$10.1 billion a year over the budget and forward estimates – giving our cities, towns and communities the infrastructure they need. Victoria’s registration scheme will ensure highly-qualified and experienced engineers develop and oversee the State’s most important projects, including the Metro Tunnel, the West Gate Tunnel Project and the Level Crossing Removal Program.

1.2 What is the current status of the engineers registration scheme?

The Engineers Registration Bill 2018 was passed by the Legislative Assembly on 29 March 2018.

The Engineers Registration Bill 2018 and Second Reading Speech are publicly available under the list of Bills in the Parliamentary Documents section of the Victorian Legislation and Parliamentary Documents website: <http://www.legislation.vic.gov.au/>

1.3 Is registration a requirement in other states?

Queensland is the only jurisdiction to have a comprehensive registration scheme for professional engineers. The Victorian scheme has been largely modelled on the Queensland scheme to promote national consistency. Some other jurisdictions have also announced they will develop comprehensive professional engineers registration schemes, including the Australian Capital Territory and Western Australia.

2. How will the engineers registration scheme work?

2.1 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; and
- your work does not fall within one of the broad exemptions: working under direct supervision or to a prescriptive standard.

2.2 What are 'professional engineering services'?

Any individual who provides 'professional engineering services' is to be registered.

Consistent with Queensland's legislation, 'professional engineering service' is defined to mean an engineering service that requires, or is based on, the application of engineering principles and data:

- (a) to a design relating to engineering; or
- (b) to a construction, production, operation or maintenance activity relating to engineering;

other than an engineering service that is provided only in accordance with a prescriptive standard.

2.3 What areas of engineering does the scheme apply to?

At the outset, the scheme will apply to five areas of engineering:

1. civil engineering;
2. mechanical engineering;
3. structural engineering;
4. electrical engineering; and
5. firesafety engineering.

In Queensland, these categories cover approximately 80 per cent of registered engineers.

The Bill also makes provision for other areas of engineering to be added through regulations in the future. It is expected other areas of engineering will be considered once the areas of engineering specified in the Bill are fully implemented.

2.4 What if I provide professional engineering services in more than one area of engineering?

An individual can seek registration in more than one area of engineering as long as they can demonstrate they meet the competency requirements for each area of engineering.

2.5 Who will be exempt from registration?

A person will be exempt from the requirement to be registered if they fall within the scope of the following two **broad exemptions**:

- (a) the direct supervision exemption; and
- (b) the prescriptive standard exemption.

An engineer is working under direct supervision when a qualified and experienced registered engineer must review or sign off their work to ensure it is of an appropriate standard. These arrangements have worked successfully in Queensland for many years. Practice notes are issued by the Board of Professional Engineers Queensland (BPEQ) to guide professional engineers in complying with, and understanding the requirements of, the *Professional Engineers Act 2002 (QLD)* and the Code of Practice. According to the Queensland practice note, depending on the nature of the service being supervised, direct contact need not be in person, but may be through written correspondence (letters, drawings, or emails), telephone, or voice or video chat. It is expected Consumer Affairs Victoria will publish similar practice notes in due course.

The prescriptive standard exemption enables people to avoid the need to be registered if the design work to be undertaken is straightforward, and does not require engineering judgement or advanced calculations.

Similar to Queensland's legislation, a 'prescriptive standard' will be a document that states procedures or criteria:

- (a) for carrying out a design, or a construction or production activity, relating to engineering; and
- (b) the application of which, to the carrying out of the design, or the construction or production activity, does not require advanced scientifically-based calculations.

These prescriptive standards are likely to be broad in scope, potentially ranging from formal publications such as Australian Standards, to the written procedures of the engineer themselves. What constitutes a prescriptive standard is likely to be supported by a practice note published by Consumer Affairs Victoria.

These exemptions will mean many people who do engineering work are exempt from the requirement to be registered. They are designed to minimise the need for people to be registered where the risks arising from their work are relatively low.

2.6 What are the registration requirements?

The engineers registration scheme is founded on the principle that a minimum level of qualifications, experience and continuing professional development is required to carry out professional engineering services.

The precise competency requirements will be established in regulations or as part of the approval of each assessment scheme.

It is expected competency will include:

- a four-year Washington accord degree;
- five years' relevant work experience; and
- continuing professional development (CPD).

It is expected most assessment schemes will rely on Washington Accord standards as the basis for qualification. These degrees are normally of four years' duration and enable substantial equivalence in professional engineering qualifications to be determined. This will mean the qualifications and experience of many foreign engineers should be directly compatible with local assessment, and enable international engineers to be held to the same requirements as local engineers. It is also expected assessment schemes will include in them the ability to assess equivalence to these standards.

It is expected the scheme will establish a requirement for 150 hours of CPD over three years. This reflects the current industry standard within Australia and internationally.

CPD can be completed in a number of ways, including: formal education and training; informal learning activities (including on-the-job learning); conferences and meetings; presentation and papers; service activity; and, industry involvement. There is no restriction on who can provide CPD activities.

2.7 What if I am based interstate or overseas?

Interstate and international engineers who provide professional engineering services for Victoria will be required to be registered.

Engineers from interstate or overseas who meet the standards of the assessment scheme will be treated in the same manner as local engineers.

2.8 What activities are prohibited under the Bill?

The Bill prohibits a person from providing professional engineering services in an area of engineering covered by the registration scheme unless they are registered. 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 engineer.

2.9 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. However, it is important to ensure consumers of engineering services can raise concerns to ensure genuine concerns can be addressed. Consumer Affairs Victoria (CAV) has extensive experience investigating complaints, and only proceeds further if evidence of a problem exists. 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.

2.10 Will enforcement of the codes of conduct lead to criminal prosecution?

No.

Enforcement in relation to codes of conduct against registered engineers will be by discipline, which is a civil process. Discipline will occur through an impartial civil tribunal with extensive experience in oversight of regulatory schemes: the Victorian Civil and Administrative Tribunal.

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

No.

The offences in the Bill relate to unregistered practice (including practice outside a person's registered area), 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.

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

Consumer Affairs Victoria (CAV) will appoint inspectors using current processes. However, the Bill makes provision for CAV's inspectors to receive technical assistance. This can be from appropriately qualified and experienced engineers. This will ensure resourcing for investigations is appropriate.

When conducting disciplinary hearings, the President of the Victorian Civil and Administrative Tribunal has the power to constitute a panel how they see fit. This will give the President scope to appoint a panel comprising a single legal member for simple matters such as directions hearings, while for more complex disciplinary matters the President could establish a panel comprising members with both legal and engineering expertise. This flexibility will ensure disciplinary processes are effective, while keeping costs to a minimum.

2.13 Will the entry powers proposed in the Bill allow entry into home offices without consent or a warrant?

No.

As part of a residence, a home office is not subject to the provision authorising entry without consent or a warrant.

3. Who will administer the engineers registration scheme?

3.1 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 co-regulatory model will enhance the registration of engineers as it leverages expertise from both the engineering profession and government.

3.2 What is the role of industry under the scheme?

The proposed co-regulatory model establishes a clear division of responsibility between industry and government. This will see:

- (a) an engineer's qualifications, experience and continuing professional development assessed by professional associations that hold the expertise to conduct such assessments and are competent in doing so; and
- (b) enforcement and compliance remaining the responsibility of the State.

Bodies such as professional associations will be able to apply to government to become assessment entities that are able to assess eligibility under the scheme.

3.3 What is an assessment scheme?

Bodies, such as professional associations, will be able to apply to provide services as an assessment scheme in the area of engineering for which they have the expertise to do so.

Assessment schemes will:

- examine the qualifications and competencies of applicants for registration;
- report to the Business Licensing Authority about the applicant's eligibility for registration; and
- audit registered engineers' compliance with continuing professional development requirements.

There are nine professional associations that provide assessment schemes under the Queensland registration scheme.

To date, Engineers Australia and Professionals Australia have indicated an interest to provide this service in Victoria.

3.4 What are the roles of the three government regulators who will jointly administer the scheme?

The Business Licensing Authority (BLA) will:

- perform the role of the lead regulator;
- determine applications for registration and renewal;
- determine applications for endorsement on the basis of a report by the Victorian Building Authority authorising a registered engineer to engage in the building industry;
- approve and revoke the approval of assessment schemes; and
- maintain a Register of Professional Engineers, including processing changes following disciplinary action.

Consumer Affairs Victoria will:

- provide the 'back office' support to the BLA;
- monitor compliance with the Engineers Registration Act 2018 following its passage through the Victorian Parliament;
- investigate and apply to the Victorian Civil and Administrative Tribunal to discipline engineers in relation to an engineer's registration; and
- prosecute offences under the Act.

The Victorian Building Authority will:

- consider applications for endorsement referred by the BLA to determine whether a registered 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*.

4. What will I need to do to apply for registration?

4.1 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 scheme. 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 scheme regarding the engineer's qualifications and competencies; and
 - the prescribed fee.

An engineer will also be required to renew their registration with the BLA every three years and pay their renewal fees to the BLA as well.

The BLA will make an assessment as to whether the person is eligible to be registered.

This will include consideration of whether the person is a fit and proper person 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.

4.2 What is an ‘endorsement’ and what is an ‘endorsed building engineer’?

If an engineer wishes to be engaged in the building industry, they will be required to hold an endorsement. An ‘endorsement’ is defined to mean a registered engineer whose registration is endorsed under Part 2 of the Engineers Registration Bill (the Bill). An ‘endorsed building engineer’ is defined to mean a registered engineer whose registration is endorsed under Part 2 of the Bill.

The Business Licensing Authority will refer all applications for endorsement to the Victorian Building Authority (VBA) for a report.

The endorsement will enable the VBA to check whether an applicant is a ‘fit and proper person’ to be engaged in the building industry. This involves checking a range of personal and financial probity matters, including whether the engineer is covered by the required insurance under the *Building Act 1993*.

The VBA will provide a report to the BLA containing a recommendation about whether to grant the endorsement, and may contain any other recommendations the VBA thinks fit. The BLA will make its decision based on this recommendation.

4.3 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.

The registration fee under Queensland’s registration scheme is \$279.50 per annum (including a one-off application fee of \$59.55). If an engineer is not practising (e.g. on maternity leave, career break or retired), they may choose a non-practising registration at a cost of \$109.95. There are no multiple fees for an engineer seeking registration in more than one area of engineering. It is expected that, with a three-year registration process in Victoria, total fees will be lower than those in Queensland.

4.4 Will applicants for registration have to be a member of a professional association?

No.

An applicant seeking assessment of their qualifications and experience in their nominated area of engineering by an assessment entity will not have to be a member of the assessment entity.

4.5 What happens if I am already registered with a professional association?

Many professional associations include the assessment of qualifications and work experience as part of professional registration programs. When a professional association becomes an assessment scheme, an engineer who is already registered with that association is not required to be assessed again. Instead, they can generate a letter online and submit that letter with the completed application form to the Business Licensing Authority for registration.

5. What if I'm already registered as a building practitioner in the category of engineering?

5.1 How will the engineers registration scheme affect my building practitioner registration?

Engineers currently registered as a building practitioner in the category of engineering will be taken to hold a registration in the equivalent area of engineering, as well as an endorsement at the commencement of the engineers registration scheme.

On the scheme's commencement, building practitioner engineers will therefore be registered by the Business Licensing Authority (BLA) and will have to pay their annual fee and provide proof of insurance to the BLA.

Before the current registration under the *Building Act 1993* expires, these engineers will be required to go through the full application process under the new scheme.

Therefore, building practitioner engineers who do not meet the qualification and experience requirements of a relevant assessment scheme will have up to five years to ensure they can meet the new scheme's eligibility requirements. Further detail will be included in transitional regulations.

Registration in all other categories of building practitioner other than engineering will be unchanged and will continue to be administered by the Victorian Building Authority.

5.2 Is it possible to be a registered building practitioner and a registered engineer?

Yes, if a person meets the eligibility for both registration schemes.

5.3 Will I still be able to carry out the same work as I do now?

If an engineer wishes to provide professional engineering services while engaged in the building industry, they will be required to be both registered under the engineers registration scheme and hold an endorsement.

If you want to do other work while engaged in the building industry (including engineering work under direct supervision or to a prescriptive standard), you will still need to be registered under the *Building Act 1993* if the Act requires you to be registered as a building practitioner.

5.4 Can I still be disciplined under the *Building Act 1993*?

Yes.

The Victorian Building Authority (VBA) will continue to receive complaints about and investigate contraventions of the *Building Act 1993*, including those relating to registered engineers.

The Bill also makes clear that the VBA can discipline endorsed building engineers in relation to their endorsement. The processes and grounds that the VBA will follow are those in the *Building Act 1993*.

5.5 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.

5.6 Will I get a new registration number?

Consumer Affairs Victoria and the Victorian Building Authority will work together to finalise such details prior to the scheme's commencement.

6. When will I find out more information?

6.1 When will the engineers registration scheme commence?

The scheme is expected to commence from mid-2019 using a staged registration process. It is envisaged the full scheme will be implemented by mid-2022. The detailed schedule for implementation will be included in the transitional regulations.

6.2 When will I find out more information?

After the Bill is passed, the regulator commence development of regulations and a Regulatory Impact Statement. This is will be informed by a public consultation process.

Consumer Affairs Victoria (CAV) and the Victorian Building Authority (VBA) will provide more detailed information about the engineers registration scheme and the transitional arrangements towards the end of 2018 to inform stakeholders of all relevant changes coming into effect.

The Code of Conduct will be developed in consultation with industry and approved by the Director of CAV. Engineers will have to comply with the Code of Conduct. Non-compliance with the Code can lead to disciplinary action against an engineer.

Professional associations that intend to apply to become an assessment scheme are likely to inform their members and the broader engineering sector about their prospective role in the scheme and any associated requirements through publications and updates on their website.