

By-law 16

16. CERTIFICATION OF ENVIRONMENTAL PRACTITIONERS ESTABLISHMENT AND PROCEDURES

16.1 Definitions and interpretation

(1) In this By-law:

“Appeal Committee” means an Appeal Committee appointed pursuant to Clause 16.6 of this By-Law.

“Board” means the Certification Board established pursuant to Clause 16.3 of this Bylaw.

“Council” means the Council of the **Institute**.

“Institute” means the Environment Institute of Australia and New Zealand.

“Panel” means a Certification Assessment Panel appointed pursuant to Clause 16.5 of this By-Law. “Panels” has a corresponding plural meaning.

“Registrar” means the Registrar appointed pursuant to Clause 16.4 of this By-Law.

“Scheme” means the Certified Environmental Practitioner Scheme established pursuant to Clause 16.2 of this By-Law.

(2) In this By-Law, unless the contrary intention appears-

- (a) words importing a gender include every other gender; and
- (b) words in the singular include the plural; and
- (c) words in the plural include the singular.

16.2 Certified Environmental Practitioner Scheme

(1) The Institute shall establish and thereafter operate a certification scheme for environmental professionals which shall be known as the Certified Environmental Practitioner (CEnvP) Scheme.

(2) It is intended that the Scheme should conform with International Standard ISO/IEC 17024:2003(E), *Conformity assessment – General requirements for bodies operating certification of persons* and any amendments thereto. The Institute and the Board established pursuant to this By-Law shall, within the context of prevailing circumstances, use their best endeavours to achieve this objective.

(3) No later than on the second anniversary of the coming into effect of this By-Law, the Institute and the Board shall conduct a review of the Scheme to determine whether or not improvements can be made to achieve greater adherence to the International Standard. If improvements are identified then such steps as are necessary shall be taken to implement them.

- (4) Certification shall be offered in the following area(s):
- General environmental practice.
- (5) It is the expectation of the Institute that the areas of practice in relation to which certification is available will expand beyond the initial, and thereafter amended, listing set out in Clause 6.2(4). The approval of additional areas of practice will be operative following the amendment of this By-law by the Institute upon receipt and approval of a recommendation from the Board to so expand the listing.
- (6) The minimum requirements for certification are as follows:
- An environment-related degree.
 - Five years experience in one or more of the functional areas of environmental practice as defined in By-law 1 during the past 10 years.
 - An agreement to abide by ethical conduct principles, such principles being those agreed upon, published on the Institute website and otherwise made public by the Board.
 - Nomination by three respected environmental professionals who are willing to act as referees for the candidate.
 - Evidence in the form of referee statements (at least two), a curriculum vitae, publications, reports, and citations, that the candidate is a respected, competent, ethical and active member of the environmental profession.
 - An ongoing commitment to training and professional improvement (at least 50 hours of training, professional improvement or service to professional practice in every two year period following certification).
 - A signed and witnessed statement of claim covering qualifications, experience, ethics, commitment and the accuracy of materials provided to the Board. This statement is to contain a declaration that all the information within it and any attachments to it are true and correct. The statement is to be witnessed by and the declaration made before a person authorised by law to take such declarations.
 - The payment of an application fee as determined from time to time by the Board.
- (7) An exemption to the requirement for an environment-related degree may be granted to candidates who have worked in the environment profession for a period of at least ten years full-time or equivalent, but who do not have a formal degree.
- (8) The CEnvP is open to all suitably qualified candidates. It is not necessary to be a member of the Institute to be eligible for certification.
- (9) Applications for certification shall be invited in one or more intakes each year.

- (10) The process to be followed with respect to applications shall be as follows:
- Each candidate shall submit their application to the Registrar appointed pursuant to this By-Law.
 - The candidate's application shall then be considered by a Panel duly appointed pursuant to this By-Law and as part of that consideration will, unless exceptional circumstances prevail, interview the candidate.
 - The Panel shall then recommend to the Board appointed pursuant to this By-Law whether or not the candidate should be certified.
 - In its discretion the Board may accept or reject the recommendation or may defer acting on the recommendation in order to clarify any aspect of the application.
- (11) A candidate whose application is rejected for any reason may re-apply in subsequent intakes, or may appeal the decision of the Board to an Appeal Committee duly appointed pursuant to this By-Law.

16.3 Certification Board

- (1) A board, to be known as the Certification Board, shall be established as a standing committee of the Institute. The Board will be responsible for certifying environmental practitioners, establishing appropriate application and annual fees and other funding arrangements, withdrawing certification where there is a breach of professional or ethical standards, monitoring and reviewing the certification process, administration and promotion of the Scheme, including the employment of staff where appropriate.
- (2) The Board shall consist of no less than five nor more than seven persons. No less than a bare majority of the Board shall be Institute members. Other persons who are not members of the Institute may be appointed to the Board. Board members from the Institute shall include representation from both the Australian and New Zealand Chapters.
- (3) The inaugural Board shall comprise the members of the Interim Certification Board, as was in existence at the date of the approval of this By-Law, and shall serve up to a period of two years from 1 July 2004.
- (4) Commencing with the Inaugural Certification Board, each successive Board shall be responsible for the identification and nomination of suitable candidates for appointment to the Board.
- (5) The Council of the Institute shall ratify the appointment of Board members, who shall serve for two years following their appointment and be eligible for reappointment, provided that each successive Board comprises at least three continuing members. In the event that a Board member should depart before the expiry of their two year term (due to ill health, death or other personal reasons), the Board will nominate a candidate to fill the vacancy and such person when duly appointed will commence a full term rather than the balance of the previous Board member's term.

- (6) The Board shall appoint, by vote, one of its members to be the Chairman of the Board. The Chairman of the Board so appointed shall serve until the anniversary of their appointment and shall be eligible for reappointment.
- (7) Members of the Board may be paid honoraria for their services, as determined by the Council. Such payments shall be funded from income from the Scheme and not from the general funds of the Institute.
- (8) The Board may at any time recommend amendments to the Scheme and develop procedures to assist in its implementation. Such procedures shall be reviewed regularly and modified when necessary.
- (9) All decisions or recommendations of the Board must be supported by more than 50 percent of all current Board members whether present or not at a Board meeting.

16.4 Registrar

- (1) A Registrar shall be appointed by the Board to administer the CEnvP applications and oversight the general administration of the Scheme. The Registrar shall be responsible for assessing whether candidates have satisfied procedural requirements, for processing duly-made applications and for administering the Panels, but shall not participate in decisions regarding candidate certifications.
- (2) The Registrar will supervise any additional administrative staff as may be required from time to time to assist in the day-to-day management of the Scheme. The remuneration of such staff shall be obtained from income derived from the Scheme and not from the general funds of the Institute.
- (3) The Registrar may be paid honoraria for his/her services, as determined by the Board. Such payments shall be funded from income derived from the Scheme and not from the general funds of the Institute.
- (4) The Board shall determine the fees to be set from time to time, as well as the amount of any honoraria or salaries to be paid in the administration of the Scheme.

16.5 Certification Assessment Panels

- (1) Panels of appropriately qualified and duly appointed persons, known as Certification Assessment Panels, shall be established by the Board for the purpose of assessing applications and providing advice to the Board. These Panels shall be drawn from a pool of panellists who should be Institute members and senior environmental professionals who are themselves certified under the Scheme or otherwise considered by their peers to be eligible for certification.

In special circumstances, as approved by the Board, a Panel may contain persons who are not members of the Institute, provided that each application shall be assessed by a Panel comprising a majority of Institute members.

- (2) Candidates for appointment to the Panels shall be nominated by Divisions or Chapters of the Institute and their appointments shall be ratified by the Board. The panellists shall be responsible to the Board, and may remain in the pool for as long as they wish, subject to their continuing acceptability to the Board.
- (3) It is the intention of the Institute that for the proper and efficient administration of the Scheme that there be established a Panel in each geographical area represented by a Division in Australia and the Chapter in New Zealand. The Panels will be progressively established by resolution of the Board when it becomes practical to do so such decision to be triggered when the pool of panellists available in each respective area becomes large enough to effectively operate as a Panel.
- (4) When a Panel is convened, it shall elect one of its members as the Chairman of the Panel. The Chairman of a Panel so appointed shall serve until the anniversary of their appointment and shall be eligible for reappointment. An alternative Chairman shall also be nominated for situations where the elected Chairman is unavailable or has a conflict of interest.
- (5) Members of a Panel may be paid honoraria for their services, as determined by the Board. Such payments shall be funded from income from the Scheme and not from the general funds of the Institute.
- (6) No less than three members of a Panel are required for assessing applications. All recommendations of a Panel must be carried by a vote of no less than 50 percent of Panel members present.

16.6 Appeal Committee

- (1) An Appeal Committee shall be appointed by the Institute within seven days of the receipt by the Registrar of:
 - (a) notification from a candidate for certification that they wish to appeal from a decision of the Board not to approve the certification of that individual; or
 - (b) notification from an environmental practitioner that they wish to appeal against a resolution of the Board to withdraw certification from that practitioner.
- (2) An Appeal Committee shall be constituted by any three Fellows of Institute, nominated by the Council.
- (3) When an Appeal Committee is convened, it shall elect one of its members as the Chairman of the Committee.

- (4) In the case of an appeal involving a resolution to withdraw certification, current Board members and members of the Panel which most recently recommended certification or renewal of the environmental practitioner shall not be eligible to be on the Appeal Committee.
- (5) In considering an appeal under this By-Law an Appeal Committee may regulate its own proceedings and it may take into account any matter it thinks relevant in making its report and recommendations.
- (6) If an Appeal Committee considers it appropriate to conduct a hearing in order to properly carry out its functions, in hearing submissions, an Appeal Committee
 - (a) must act according to equity and good conscience without regard to technicalities or legal forms; and
 - (b) is bound by the rules of natural justice; and
 - (c) is not required to conduct the hearing in a formal manner; and
 - (d) is not bound by the rules or practice as to evidence but may inform itself on any matter- (i) in any way it thinks fit; and (ii) without notice to any person participating in the hearing.

16.7 Appeal against decision not to certify an applicant

- (1) Where the Board passes a resolution not to certify an applicant for certification, the Registrar shall, as soon as practicable, cause to be sent to the applicant a letter which:
 - (a) sets out the resolution of the Board and the grounds on which it is based;
 - (b) states that the applicant may either: (i) accept the decision of the Board and give consideration to applying again on some future occasion; or
 - (c) explain that if the applicant wishes to exercise a right of appeal from the Board's decision then he or she must advise the Registrar in writing, of their wish to appeal, within 28 days of the date of the Registrar's letter.
- (2) In the event of the Registrar receiving advice from the applicant in accordance with (1)(c) of an intention to exercise a right of appeal, the Registrar shall in reply serve, within 14 days of receiving the said advice, on the applicant a second letter which:
 - (a) states the applicant may address an Appeal Committee of the Institute at a meeting to be held not earlier than 14 and not later than 28 days after service of the second letter from the Registrar;
 - (b) states the date, place and time of that meeting;

- (c) informs the applicant that he or she should do the following:
 - (i) attend that meeting (either in person or by a duly appointed representative);
 - (ii) give to the Registrar before the date of that meeting a written statement setting out the grounds upon which the appeal is brought.
- (3) At the appointed meeting of the Appeal Committee, the Committee:
 - (a) shall give the applicant an opportunity to be heard;
 - (b) shall give due consideration to any written statement submitted by the applicant; and
 - (c) shall determine whether to confirm or revoke the Board's resolution.
- (4) The Appeal Committee will report in writing its findings and decision to the Board within seven days of its hearing of the appeal. The decision of the Appeal Committee is final and binding on the Board.
- (5) The Registrar will provide to the applicant a copy of the Appeal Committee's finding and decision.

16.8 Review of Certification

- (1) Each Certified Environmental Practitioner is required to submit their certification to a review at two year intervals.
- (2) The procedures for review of certification and associated fees shall be determined by the Board.

16.9 Withdrawal of Certification

- (1) The withdrawal of certification from an environmental practitioner shall only occur upon resolution of the Board and such resolution shall only be competent following strict adherence to a procedure to known as the "Withdrawal of Certification Procedure" as set out in the following sub clauses of this By-law.
- (2) A resolution of the Board under (1), whether or not the environmental practitioner exercises a right of appeal under the Withdrawal of Certification Procedure, does not take effect until the Board confirms the resolution at a subsequent meeting.
- (3) Where the Board passes a resolution under (1), the Registrar shall, as soon as practicable cause to be served, by registered mail, on the environmental practitioner a notice in writing:

- (a) setting out the resolution of the Board and the grounds on which it is based;
 - (b) stating that the environmental practitioner may either: (i) accept the decision of the Board; or (ii) exercise a right of appeal to an Appeal Committee;
 - (c) explaining that if the environmental practitioner chooses to accept the decision of the Board then he or she is to confirm such acceptance in writing addressed to the Registrar within 28 days of the date of the notice otherwise a failure to respond will be deemed to be acceptance;
 - (d) explaining that if the environmental practitioner wishes to exercise a right of appeal from the Board's decision then he or she must advise the Registrar in writing, of their wish to appeal, within 28 days of the date of the Registrar's notice.
- (4) In the event of the Registrar receiving advice from the environmental practitioner in accordance with (3)(d) of an intention to exercise a right of appeal, the Registrar shall serve in reply, by registered post, within 14 days of receiving the said advice, on the environmental practitioner a second notice in writing:
- (a) stating the environmental practitioner may address an Appeal Committee of the Institute at a meeting to be held not earlier than 14 and not later than 28 days after service of the second notice from the Registrar;
 - (b) stating the date, place and time of that meeting;
 - (c) informing the environmental practitioner that he or she should do the following:
 - (i) attend that meeting (either in person or by a duly appointed representative);
 - (ii) give to the Board before the date of that meeting a written statement seeking the revocation of the resolution by way of appeal to an Appeal Committee of the Institute and setting out the grounds upon which such revocation is sought.
- (5) At a meeting of the Appeal Committee held in accordance with 4(b), the Committee:
- (a) shall give to the environmental practitioner an opportunity to be heard;
 - (b) shall give due consideration to any written statement submitted by the environmental practitioner; and
 - (c) shall determine whether to recommend confirmation or revocation of the resolution.
- (6) The Appeal Committee will report in writing its recommendation to the Board within seven days of its hearing of the appeal.
- (7) The Board will at its next meeting determine whether to accept or reject the recommendation of the Appeal Committee.

- (8) The Registrar will provide to the environmental practitioner a copy of the Appeal Committee's finding and recommendation prior to the Board meeting referred to in (7).

16.10 Conflict of Interest

- (1) A member of the Board, Panel or Appeal Committee shall not participate in the assessment or review of certification or appeal pursuant to their duties under the Scheme if that participation may involve a conflict of interest, for example, through an employment or family relationship, or if the member of the Board, Panel or Appeal Committee is or has been a referee of the candidate or practitioner concerned.
- (2) If there is any doubt about a potential conflict of interest, this should be declared to other members of the Board, Panel or Appeal Committee, as the case may be, who shall determine whether the member should stand down from the Board, Panel or Appeal Committee in relation to the particular matter under review or function being performed, or alternatively abstain from voting.
- (3) In circumstances where a member of the Board, Panel or Appeal Committee has had to stand down for the time being whilst a particular matter is to be considered, if considered necessary the Board may appoint an appropriate substitute as an acting Board member or an acting panellist and the Council may appoint a substitute to be an acting Appeal Committee member.

16.11 Finances

- (1) The financial operations of the Scheme shall be managed independently of the general funds of the Institute or any of its Divisions or the New Zealand Chapter. A separate bank account shall be operated for the Scheme, for which there must be at least three authorised signatories. The signatures of any two of these persons shall be required for cheques or other transactions involving payment or transfer of funds.
- (2) An Annual Report on the operation of the Scheme, including an independently audited financial report, shall be presented to the Annual General Meeting of the Institute and published on the Institute website.
- (3) The responsibility for the financial operation of the Scheme shall rest with the Board however the Board must provide a report on the financial health of the Scheme to the Treasurer of the Institute no less frequently than quarterly. In the course of its financial management of the Scheme, the Board may seek assistance from the Treasurer of the Institute or another member of the Institute appointed by the Council for this purpose.
- (4) The Board shall determine an annual charge and an application fee for certification. These charges shall be set at a level that covers the full cost of certification and are commensurate with the value of certification to the practitioner. The charges may vary according to whether a person is a Fellow, a member or a non-member of the Institute.

The Board shall review charges annually at least two months prior to the date set for renewal of certification.

- (5) The Board and/or Council shall also seek supplementary funding for establishment, implementation and promotion of the scheme, provided always that any sponsorship is subject to approval of Council, avoids any potential real or perceived conflict of interest, and maintains the independence of the certification process.
- (6) Notwithstanding the requirement for the Scheme to be self-sustaining financially, the Council may approve the temporary transfer of general funds for use in the establishment or upgrading of the Scheme, subject to such funds being repaid at a specified time.
- (7) All funds held within the Scheme shall remain the property of the Institute in a distinct fund established for that purpose. Such funds will revert to the Institute's general funds in the event of the Scheme being wound up and ceasing to operate.

16.12 Indemnity

- (1) The Institute shall secure and maintain such insurance cover as is necessary to provide full indemnity to the Institute, the Council, the Board, Panels and the Appeal Committee with respect to the performance of their respective roles in relation to the Scheme.
- (2) The maintenance of such insurance cover is a necessary cost of the Scheme and so shall be met out of the funds of the Scheme pursuant to Clause 16.11.
- (3) The Registrar shall keep within a retrievable file a copy of the requisite certificate of insurance, a copy of the insurance policy and a copy of each receipt evidencing the annual renewal of such insurance, all of which may be inspected upon request by any member or prospective member of the Council, Board, Panels or Appeal Committee.
- (4) In the Annual Report on the Scheme referred to in Clause 16.11(2), the existence, terms and cost of the insurance cover secured for the purposes of the Scheme shall be the subject of report.