

Australian Capital Territory

Professional Engineers (Professional Engineers) Code of Practice 2024

Disallowable instrument DI2024–279

made under the

Professional Engineers Act 2023, s 85 (Codes of practice)

EXPLANATORY STATEMENT

This explanatory statement relates to the *Professional Engineers (Professional Engineers) Code of Practice 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 85 of the *Professional Engineers Act 2023* (the *Act*) permits the Minister to approve a code of practice for professional engineers, an area of engineering or a professional engineering service. This Code of Practice (the Code) for professional engineers is made under section 85 (1) (a) of the *Act*. Under section 27 (b) of the *Act*, a professional engineer is obligated to comply with the *Act*, including any approved code of practice. The failure to comply with the Code is both grounds for disciplinary action and an offence (sections 36 and 61 of the *Act*).

The code of practice under section 85 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 set standards of conduct for professional engineers. This supports the objects of the *Act* to uphold standards of practice and maintain public confidence in the standard of services provided by professional engineers in the ACT.

This instrument sets out professional conduct obligations and applies to professional engineers in all areas of engineering.

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 sets out professional conduct obligations.

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* (the *HRA*) expressly provides that the practice of a trade, occupation or profession may be regulated by law. Determining standards of conduct is common practice in occupational registration schemes.

A detailed human rights assessment is contained in the [explanatory statement](#) to the *Professional Engineers Bill 2022* including consideration of the impact of the introduction of a professional engineers registration scheme in the ACT on the right to work under 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 (Professional Engineers) Code of Practice 2024*.

Clause 2 provides that this instrument commences on 6 March 2025.

Clause 3 approves the code of practice for professional engineers in schedule 1.

Schedule 1 contains the code of practice for all professional engineers under the *Act*. The code of practice covers professional standards, expectations of behaviours and requirements relating to conflicts of interest and record retention.