

July 2017

NEW ZEALAND MINING BOARD OF EXAMINERS

Reduction in the number of examination panel members

Scope

This document sets out the policy and process to be followed in circumstances where a panel of examiners is reduced to less than three members.

Purpose

The notice of requirements for granting certificates of competence is set out in the New Zealand *Gazette* Notice, 153 of 18 December 2014. This includes the requirement for the applicant to satisfy a panel of examiners, by way of oral examination, that he or she has satisfactory knowledge of good mining practice in relevant areas.

The New Zealand Mining Board of Examiners (the Board) has specified that panels of examiners consist of at least three members, including the chair, appointed from the register of panels' members. It is the Board's expectation that a panel will consist of no less than three members unless the circumstances are exceptional.

Background

Circumstances may arise where at the specified time of or immediately before an examination; one or more of the panel members is unable to carry out their role.

Such circumstances may arise, but not be confined to cases of ill health or where on meeting the applicant it is apparent that a panel member has an interest.

Assessing whether a conflict of interest exists

The Governance Manual states:

“An interest that is remote or insignificant is not considered to be an interest under the Crown Entities Act. Therefore, after identifying an interest, it is necessary to determine whether or not that interest is remote or insignificant. An interest that is not remote or insignificant is likely to create a conflict of interest.

The key question to ask when considering whether an interest may create a conflict is: ‘does the interest create an incentive for the Member to act in a way that may not be in the best interests of the Board and WorkSafe?’ If the answer is yes, a conflict of interest exists. The existence of the incentive is sufficient to create a conflict. Whether or not the Member would actually act on the incentive is irrelevant. It is also important to consider how the public could perceive the interest.”¹

When determining whether or not a conflict of interest exists, it is important to consider the following:

- direct financial benefit
- family members' financial interest
- financial interest in other persons
- other interests
- personal connections or relationships.

The Governance Manual should be referred to as it provides more detail.

¹ New Zealand Mining Board of Examiners' Governance Manual, Chapter 4: Duties and responsibilities.

Process

Members are not confirmed onto panels until they have indicated that either the candidate(s) are unknown to them or they have declared an interest. However, a candidate may for example be known to a panel member by another name and the interest will only become apparent at the time of the applicant's examination. The panel member will need to immediately declare any interest to the chair of the panel (the Chair).

Procedures

Assessing the situation

- The panel member who considers that they need to be excused from the panel must inform the Chair immediately giving the reason why they cannot be on a panel.
- The Chair will consider the request, in consultation if required, with the member of the Board's secretariat, and make a decision taking into account the individual circumstances, and the Board's Governance Manual and/or policies, as required.
- If the request is on the basis that a panel member has declared an interest, the member's reason for the conflict must be identified and the extent of the conflict must be assessed on the basis of the Governance Manual.
 - If the decision is that the interest is 'remote or insignificant' a declaration of interest form must be signed by the affected panel member.
 - If the decision is that a conflict of interest exists, the panel member needs to be excused from the examination.

Decision

If the decision results in two panel members being available to sit on an applicant's panel, the oral examination should go ahead because there is more than one person to assess an applicant.

If the decision is that the Chair cannot participate in the panel, one of the two remaining panel members must be selected as Chair.

If a panel is left with one member, the panel must be cancelled as there is an insufficient number to assess an applicant.

If the affected member is the appropriate technical the panel will be cancelled.

In the case where a decision is made not to hold a panel examination for an applicant, the Chair will inform the applicant: of the decision; why the decision has been made and that a new examination time will be arranged by the Secretariat as soon as possible.

A written report from the Chair outlining the reasons for a member's withdrawal and the reasons for the Chair's decision will be sent to the Board's Chair who in turn will send to the Board.

Compensation for the Applicant

In the case where an applicant cannot be examined, the applicant's travel costs to attend the examination and any other reasonable expenses such as accommodation will be compensated. If reimbursement is applicable, the applicant should apply for reimbursement of reasonable costs to the Board's secretariat. Receipts or other proof such as kilometres travelled must be provided.

Review

The 'Reduction in the number of examination panel members' policy' will be reviewed on a three year basis by the Secretariat to ensure its on-going effectiveness and adherence to the relevant regulations.

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