



EXTRATERRITORIALITY OF THE PROFESSIONAL ENGINEERS ACT

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BOARD OF PROFESSIONAL ENGINEERS OF QUEENSLAND

The Board of Professional Engineers of Queensland (**Board**) is a statutory body established under the *Professional Engineers Act 2002 (Act)*, to uphold the standards of practice through regulating the engineering profession in Queensland.

PURPOSE

The purpose of this practice note is to offer guidance for engineers and businesses on the application of the Act to professional engineering services provided from interstate or overseas.

INTRODUCTION

Engineering is a globally interrelated profession and technology allows for engineers to work across international borders with relative ease.

The Act is designed to uphold engineering standards and protect the Queensland public. The Act applies to professional engineering services provided in Queensland or for Queensland.

REQUIREMENTS OF THE ACT

The Act requires that any person carrying out a 'professional engineering service' must be registered with the Board as a 'registered professional engineer of Queensland' (**RPEQ**) with practising status.



A professional engineering service means:

an engineering service that requires, or is based on the application of engineering principles and data to a design, or to a construction, production, operation or maintenance activity, relating to engineering, and does not include an engineering service that is only in accordance with a prescriptive standard.

The only exception to being registered is if a person carries out the professional engineer services under the 'direct supervision' of a RPEQ who is responsible for the services. Direct supervision requires that:

a RPEQ ... has direct contact and actual knowledge and directs the person in the carrying out of the services and overseas and evaluates the carrying out of the services by the person and takes full professional responsibility for the services.

Professional engineering services are provided from within and outside of Queensland, so the Act has what is called an extraterritorial application which means that a law applies outside the state boundaries of Queensland – see section 6A of the Act:

1. This Act applies both within and outside Queensland.
2. This Act applies outside Queensland to the full extent of the extraterritorial legislative power of the Parliament.

Amendments to the Act were made by the Queensland Parliament in 2014 to clarify the application of the Act extraterritorially – see the Explanatory Notes to the Professional Engineers and Other Legislation Amendment Bill 2014:

[This] Act applies both within and outside of Queensland. [The extraterritorially] provision clarifies that engineers who provide professional engineering services outside of Queensland for Queensland projects must be registered under the Act or directly supervised by a registered professional engineer.

In a practical sense there are three situations in which the Act will apply. These are where a person:

1. located *in Queensland* provides professional engineering services for *Queensland*
2. located *in Queensland* provides professional engineering services for *outside Queensland*
3. located *outside Queensland* provides professional engineering services for *Queensland*.



When does the Act apply?

In the first two situations, the person providing the professional engineering services must be registered with the Board as a practising RPEQ because the professional engineering service is being carried out physically in Queensland and the objectives of the Act – upholding engineering standards and protecting the Queensland public – must be met.

The Act will apply in relation to the third situation, and the person providing the professional engineering service must be registered, where the service is for a project based in Queensland. As a real-life example, engineers based in the United States undertaking engineering design work on the Curtis Island LNG plant near Gladstone were registered as practising RPEQs with the Board. If they were not registered they would not be permitted to carry out the services unless they were directly supervised.

The extraterritorial application of the Act may also exist for prefabricated equipment, plant and machinery brought into Queensland for a project based in Queensland. For instance, a RPEQ may need to apply their engineering knowledge and expertise to assess (or directly supervise the assessment by an unregistered person) of a product for its suitability to operate in Queensland.

The extraterritorial application of the Act may also exist in circumstances where a professional engineering service is carried out outside of Queensland on a national or regional basis for an area that includes Queensland. As an example, maintenance in Victoria or Singapore of aircraft that will be flown into Queensland. The fact that these services are also provided in relation to other sites outside of Queensland is irrelevant to the extraterritoriality of the Act. Similarly, these principles and requirements will apply where professional engineering services are provided at different stages of a project.

The extraterritorial application of the Act is unlikely to exist in circumstances where professional engineering services are carried out for generic products that can be used anywhere e.g. a motor vehicle designed, manufactured and exported from the United Kingdom.



When does the Act not apply?

A person outside Queensland providing a service for outside Queensland is not required to be registered as the Act does not apply through physical jurisdiction nor is the service intended for a Queensland based project.

Where the services are provided	Where the services are destined for	Act applies
In Queensland	Service for Queensland	Yes
	Service for elsewhere	Yes
Outside of Queensland	Service for Queensland	Yes
	Service for elsewhere	No

To reiterate, the Act applies to professional engineering services in or for Queensland to ensure that professional engineers are accountable to the Queensland public for the services they provide.

Engineers and businesses should always seek their own legal advice on the extraterritoriality of the Act where professional engineering services are provided outside of Queensland for projects based in Queensland.

REFERENCES

Related legislation:

The Professional Engineers Act 2002