

March 2018

NEW ZEALAND MINING BOARD OF EXAMINERS

Access to the register of certificate of competence holders policy and procedures

Purpose

The purpose of this policy is to:

- outline guidelines used by the New Zealand Mining Board of Examiners (the Board) to assess whether the Board will grant the applicant access to a copy of the register of certificate of competence (CoC) holders (the register) or an extract from the register
- ensure there are clear and transparent policy and procedures on how to apply to the Board for a copy of the register or an extract from it.

Legislation

Regulation 48 of the Health and Safety at Work (Mining Operations and Quarry Operations) Regulations 2016 (the Regulations) states that:

- “1. Any person may apply to the Board for a copy of the register or an extract from it for the purpose of ascertaining whether an identified person
 - a. holds a current certificate of competence
 - b. holds a certificate of competence that is suspended or
 - c. held a certificate of competence that has subsequently expired or been cancelled.
2. If the Board is satisfied that the person has a proper interest in the information and the information required is required for a purpose specified in any paragraphs (a) to (c) of subclause (1), the Board, may, on payment of the prescribed fee, if any, provide the person with a copy of or an extract from the register.”

Scope

This policy and procedures extends to any person applying to the Board for a copy of the register or an extract from it.

The purpose of the procedures is to provide support and guidance to the Board when determining whether access is granted or not granted to the register or an extract from it.

Register of certificate of competence holders

The Board's secretariat holds and maintains the register of CoC holders. The register is not a public register because Regulation 48 specifies that the Board may provide a copy of the register or an extract from the register if it is satisfied the person applying for the register has 'a proper interest' in the information for ascertaining whether an identified person holds a current CoC or a CoC that is suspended or a CoC that has subsequently expired or been cancelled.

Definition of proper interest

The Board considers a proper interest to mean that access to the information is not allowed unless the need for the information overrides confidentiality and privacy interests.

Guidance for decision-making

The Board must be satisfied of the need for the information, based on the person's application outlining the reasons for the request. The purpose must be for a purpose specified in regulation 48(1). Careful evaluation of that need would be particularly relevant if (under regulation 48) a CoC has been suspended or cancelled, for the reasons outlined in regulation 45.

Guidance comes from privacy principles in the Privacy Act, in particular privacy principle 11, which places limits on the disclosure of personal information and (amongst other things) requires the agency holding the information to evaluate whether, in the circumstances of the case, it would be unfair or unreasonable to disclose it.

Other considerations might be that disclosure might be necessary to prevent a serious threat to public safety, or that it might be necessary for the conduct of proceedings before a court of tribunal that have commenced or are reasonably in contemplation.

Process

The Board makes the decision to enable or refuse access to the information under regulation 48 of the Regulations.

Applications for a copy of the register or an extract must be made in writing to the Board's Secretariat, setting out the information required and the reason the information is required. BoE_secretariat@worksafe.govt.nz or New Zealand Mining Board of Examiners, WorkSafe, PO Box 165, Wellington 6140

The Secretariat will provide the information (the information required, who has requested the information and the reason for the request) to the Board in order to enable it to make a decision.

The Board will make its decision on the basis that the person making the request has a proper interest in the information and the information required is required for a purpose specified in any of the paragraphs (a) to (c) of subclause (1) of the Regulations.

The Chair will inform the person applying of the Board's decision. If the Board's decision is not to release the information the reasons will be set out.

Review

This policy and will be reviewed on a three year basis by the Secretariat to ensure its ongoing effectiveness and adherence to the relevant regulations.

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