

BPB Complaint No. C2-01198

IN THE MATTER OF

Under the Building Act 2004 (the Act)

A complaint to the Building Practitioners' Board under section 315 of the Act

AGAINST

Brendon Kimura, Licensed Building Practitioner No. BP 117269

DECISION OF THE BUILDING PRACTITIONERS' BOARD

Introduction

- [1] [The Complainant] lodged a complaint with the Building Practitioners' Board (the Board) on 22 May 2015 in respect of Brendon Kimura, Licensed Building Practitioner (the Respondent).
- [2] The complaint alleged the Respondent, in relation to building work at multiple locations¹: has failed, without good reason, in respect of a building consent that relates to restricted building work that he is to carry out (other than as an owner-builder) or supervise, or has carried out (other than as an owner-builder) or supervised, (as the case may be), to provide the persons specified in section 88(2) with a record of work, on completion of the restricted building work, in accordance with section 88(1) (s 317(1)(da)(ii) of the Act).
- [3] The Respondent is a Licensed Building Practitioner with a Carpentry Licence issued 11 April 2012.
- [4] The Board has considered the complaint under the provisions of Part 4 of the Act and the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008 (the Regulations).
- [5] The following Board Members were present at the hearing:
- | | |
|--------------------|-------------------|
| Chris Preston | Chair (Presiding) |
| Richard Merrifield | Deputy Chair |
| Mel Orange | Board Member |
| Robin Dunlop | Board Member |
| Dianne Johnson | Board Member |
| Bob Monteith | Board Member |
- [6] The matter was considered by the Board in Christchurch on 16 August 2016 in accordance with the Act, the Regulations and the Board's Complaints Procedures.

¹ Refer to para 19 for a list of specific properties.

[7] The following other persons were also present during the course of the hearing:

Greg La Hood	Counsel for the Registrar
Sarah Romanos	Board Secretary
Brendon Kimura [Omitted]	Respondent Support Person for the Respondent
Hans van Schreven	Legal Counsel for the Respondent
[Omitted]	Complainant
David Jackson	Legal Counsel for the Complainant

Members of the public were not present.

[8] No Board Members declared any conflicts of interest in relation to the matters under consideration.

Board Procedure

[9] The “form of complaint” provided by the Complainant satisfied the requirements of the Regulations.

[10] On 12 November 2015 the Registrar of the Board prepared a report in accordance with reg 7 and 8 of the Regulations. The purpose of the report is to assist the Board to decide whether or not it wishes to proceed with the complaint.

[11] On 10 December 2015 the Board considered the Registrar’s report and in accordance with reg 10 it resolved to proceed with the complaint that the Respondent has failed, without good reason, in respect of a building consent that relates to restricted building work that he is to carry out (other than as an owner-builder) or supervise, or has carried out (other than as an owner-builder) or supervised, (as the case may be), to provide the persons specified in section 88(2) with a record of work, on completion of the restricted building work, in accordance with section 88(1) (s 317(1)(da)(ii) of the Act).

[12] On 1 August 2016 a pre-hearing teleconference was convened by Board Member Mel Orange. The Respondent and his Legal Counsel were present as was Counsel for the Registrar. The hearing procedures were explained and the Respondent’s attendance at the substantive hearing was confirmed.

Function of Disciplinary Action

[13] The common understanding of the purposes of professional discipline is to uphold the integrity of the profession. The focus is not punishment, but the protection of the public, the maintenance of public confidence and the enforcement of high standards of propriety and professional conduct. Those purposes were recently reiterated by the Supreme Court of the United Kingdom².

[14] In New Zealand the High Court noted in *Dentice v Valuers Registration Board*³:

² *R v Institute of Chartered Accountants in England and Wales* [2011] UKSC 1, 19 January 2011.

³ [1992] 1 NZLR 720 at p 724

Although, in respect of different professions, the nature of the unprofessional or incompetent conduct which will attract disciplinary charges is variously described, there is a common thread of scope and purpose. Such provisions exist to enforce a high standard of propriety and professional conduct; to ensure that no person unfitted because of his or her conduct should be allowed to practise the profession in question; to protect both the public and the profession itself against persons unfit to practise; and to enable the profession or calling, as a body, to ensure that the conduct of members conforms to the standards generally expected of them.

- [15] It must also be noted that the Board only has jurisdiction with regard to “the conduct of a licensed building practitioner” and with respect to the grounds for discipline set out in s 317 of the Act. It cannot investigate matters outside of those grounds, does not have any jurisdiction over contractual matters and cannot deal with or resolve disputes between a complainant and the person who is the subject of the complaint.

The Hearing

- [16] The hearing commenced at 10 a.m.
- [17] At the hearing the Board was assisted in the presentation of the case by the Counsel for the Registrar.
- [18] Persons giving evidence were sworn in, their evidence was presented and they answered questions from the Board.

Substance of the Complaint

- [19] The complaint related to the failure by the Respondent to provide records of work on completion of restricted building work at the following properties:
- (a) [Omitted], Christchurch;
 - (b) [Omitted], Christchurch;
 - (c) [Omitted], Christchurch;
 - (d) [Omitted], Christchurch;
 - (e) [Omitted], Christchurch;
 - (f) [Omitted], Christchurch;
 - (g) [Omitted] Christchurch;
 - (h) [Omitted], Christchurch; and
 - (i) [Omitted], Banks Peninsula.

Evidence

- [20] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed. The relevant authority is *Z v Dental Complaints Assessment Committee*⁴ where Justice McGrath in the Supreme Court of New Zealand stated:

⁴ [2009] 1 NZLR 1

[102] The civil standard has been flexibly applied in civil proceedings no matter how serious the conduct that is alleged. In New Zealand it has been emphasised that no intermediate standard of proof exists, between the criminal and civil standards, for application in certain types of civil case. The balance of probabilities still simply means more probable than not. Allowing the civil standard to be applied flexibly has not meant that the degree of probability required to meet the standard changes in serious cases. Rather, the civil standard is flexibly applied because it accommodates serious allegations through the natural tendency to require stronger evidence before being satisfied to the balance of probabilities standard.

[105] The natural tendency to require stronger evidence is not a legal proposition and should not be elevated to one. It simply reflects the reality of what judges do when considering the nature and quality of the evidence in deciding whether an issue has been resolved to "the reasonable satisfaction of the Tribunal". A factual assessment has to be made in each case. That assessment has regard to the consequences of the facts proved. Proof of a Tribunal's reasonable satisfaction will, however, never call for that degree of certainty which is necessary to prove a matter in issue beyond reasonable doubt.

- [21] The table at Appendix A outlines the records of work which have been filed by the Respondent since the complaint was laid.
- [22] The Respondent filed an affidavit covering his building background, how he came to subcontract to the Complainant and the circumstances surrounding the records of work. His Legal Counsel put questions to the Complainant as regards the contents and assertions made in the affidavit, as did the Board.
- [23] The Complainant's company had contracted with Maxim Homes Limited to supply the carpentry services to the builds and the Complainant in turn engaged the Respondent as a subcontractor on a per square metre rate.
- [24] The Respondent gave evidence and submitted that:
 - (a) a request for a record of work was only made of him by the Complainant on 5 May 2016 by email and he denied any verbal requests were made by the Complainant prior to that date;
 - (b) there were nine properties where he carried out restricted building work;
 - (c) he acknowledged his obligations under the Act and stated he understood those obligations;
 - (d) the complaint against him coincided with a dispute with the Complainant and was motivated by it;
 - (e) evidence that the Complainant had a contractual arrangement with Maxim Homes Limited under which the Complainant could not subcontract its obligations;
 - (f) evidence that the Respondent raised the question of records of work with the Complainant but was advised that the Complainant would deal with them in that they would be filed by the Complainant as supervisor and that this was consistent;
 - (g) it was open to the Board to determine the reason the Respondent did not complete the records of work was because the Complainant asked him not to

as if he did so, and provided the records of work, it would expose the fact that the Respondent was engaged by the Complainant as a sub-contractor in breach of his contract with Maxim Homes;

- (h) the records of work have since been completed and filed in respect of the nine properties and the ninth was soon after the completion of the restricted building work; and
- (i) he has completed and provided records of work for other unrelated jobs as per the requirements of the Act.

[25] The Complainant did not accept the assertion that he had told the Respondent that he did not have to complete records of work and that he would do them. He stated Maxim was aware of the subcontract relationship and that he had made at least one request for a record of work during the contractual relationship as well as requests after its completion.

[26] The Complainant also gave evidence that the only reason he completed records of work as the supervisor of the restricted building work was that they were required for the issue of Code Compliance Certificates and he was unable to obtain the records of work from the Respondent. He had obtained records of work from at least one other subcontracted person. He continued his request for records of work from Mr Kimura, having done versions himself, as he wanted to make sure he was protected from downstream liability.

[27] Counsel for the Respondent submitted the circumstances surrounding the non-provision of the records of work were such that there were good reasons as per the Act for not providing them. Reference was made to Board Decision C1129⁵ and the Board's reasoning therein as regards good reasons.

Board's Conclusion and Reasoning

[28] There is a statutory requirement under s 88(1) of the Building Act 2004 for each licensed building practitioner who carries out or supervises restricted building work⁶ to provide a record of work to the owner and the territorial authority on completion of restricted building work.

[29] The Board discussed issues with regard to records of work in its decision C2-01170⁷ and gave guidelines as to who must provide a record of work, what a record of work is for, when it is to be provided, the level of detail that must be provided, whom a record of work must be provided to and what might constitute a good reason for not providing a record of work.

[30] In the case before it records of work were initially provided by the Complainant on the basis of his having supervised the restricted building work. The provision of those records of work is the subject of a separate Board Inquiry.

[31] In Board Decision C2-01284⁸ the Board looked at the situation where a record of work is provided by one licensed person purporting to have supervised another licensed person. In that case the Board found that a licensed building practitioner does not require supervision within the class of their licence by virtue of their being

⁵ Board Decision dated 26 November 2014

⁶ Restricted Building Work is defined by the Building (Definition of Restricted Building Work) Order 2011

⁷ *Licensed Building Practitioners Board Case Decision C2-01170* 15 December 2015

⁸ Board Decision dated 3 August 2016.

licensed. This is not changed by one practitioner considering themselves to be in charge of a building site, of the work being carried out or that they are prepared to provide a record of work for other licensed building practitioners. The fact remains that the wording of the legislation is clear in that each licensed building practitioner must provide a record of work for the restricted building work they carry out.

- [32] The Board notes that in C2-01284 there was nothing the respondent in it could have provided a record of work for. He had not carried out any restricted building work and he had not supervised any unlicensed persons. As such the record of work he did provide was meaningless. The same applies here. The records of work provided by the Complainant did not supplant those the Respondent was required to provide.
- [33] It is important to note in this context that the record of work provisions were designed to create a documented record of who did what in the way of restricted building work under a building consent. It ensures all those involved in carrying out or supervising restricted building work can be identified by the owner (and any subsequent owner) and the territorial authority along with the restricted building work they carried out. Providing a record of work in the place of another licensed building practitioner would defeat this purpose.
- [34] It is also to be noted that a record of work given by a licensed building practitioner does not, of itself, create any liability that would not otherwise exist as s 88(4) provides:
- (4) *A record of work given under subsection (1) does not, of itself,—*
 (a) *create any liability in relation to any matter to which the record of work relates; or*
 (b) *give rise to any civil liability to the owner that would not otherwise exist if the licensed building practitioner were not required to provide the record of work.*
- [35] Looking then at the conduct of the Respondent it was accepted that his restricted building work was complete and that he had not, until recently, provided records of work. Whilst he has since provided them he did not do so on completion. There has been a significant, unacceptable, period of delay. The Respondent has, however, raised a defence of good reason.
- [36] As outlined by the Respondent's Legal Counsel the burden of establishing a good reason is on the Respondent to the standard of the balance of probabilities. Reference was made to Board Decision C1129⁹ and the following passages in it the Board stated:

6.7 The reason put forward by the Respondent was that he could not provide the records of work as, in his opinion, he could not make the statement that he had actually supervised the work. The question for the Board then is whether a licensed person can be required to complete a record of work in circumstances where, through the actions of others, they cannot, in good faith, make the statements set out in the record. Or whether, to phrase it in the language of the Act, this is a good reason.

6.8 The Board is mindful, in considering this, that to find in the affirmative would be to potentially allow employed persons to avoid their responsibilities under their employment arrangements. The converse is, however, also a possibility. Finding that an employee must, irrespective of the circumstances they are

⁹ 26 November 2014

placed in, complete a record of work for restricted building work they are supervising may place them in an untenable position. The Board should not be disciplining persons for refusing to make a false statement. Given this the Board considers that the circumstances under which an employee who is, as part of their employment, required to supervise restricted work may constitute a good reason not to complete a record of work but each case must be determined on its own merits.

- [37] Legal Counsel for the Respondent submitted that due to the circumstances of the contract relationship as outlined in the evidence, the Complainant's direction not to complete records of work and his own undertaking to complete them as supervisor, it was open to the Board to find that there was a good reason.
- [38] The evidence before the Board as regards the contractual relationship, its impact on the provision of records of work and the arrangements between the Respondent and the Complainant, were not unequivocal. The evidence of each contradicted the other. Notwithstanding this the Board does not consider, even if the evidence of the Respondent was accepted, that there was a good reason.
- [39] The Respondent has stated he understands his obligations as regards record of work. In questioning he accepted that his obligation was to provide a record of work for his restricted building work and not to allow another licensed building practitioner to do so in his place. As such, even if his explanation that he did not initially do records of work so as to allow the Complainant to conceal the nature of his involvement, he knew, or should have known, that this was not acceptable and that he had to complete his own records of work.
- [40] The Board also considers Board Decision C1129 and the reasoning in it does not apply to the present case. In C1129 the Board found that an employee who was a licensed building practitioner had not committed a disciplinary offence in failing to provide a record of work in circumstances where he was not able to effectively supervise and had taken steps to try and rectify that situation. He had been asked to sign records of work for the supervision of restricted building work that he had not, as a result of being overstretched, been able to actually supervise. As such he considered he was not able to complete the records of work.
- [41] In the present case the reason put forward as to why the Respondent could not provide the records of work was that he wanted to aid the Complainant in deceiving the main contractor. This does not constitute a good reason and accordingly the Board finds that a defence to the disciplinary charge has not been established.

Board Decision

- [42] The Board has decided that Respondent has failed, without good reason, in respect of a building consent that relates to restricted building work that he has carried out to provide the persons specified in section 88(2) with a record of work, on completion of the restricted building work, in accordance with section 88(1) (s 317(1)(da)(ii) of the Act) and should be disciplined.
- [43] The above finding is in respect of the following properties:
 - (a) [Omitted], Christchurch;
 - (b) [Omitted], Christchurch;
 - (c) [Omitted], Christchurch;

- (d) [Omitted], Christchurch;
- (e) [Omitted], Christchurch;
- (f) [Omitted], Christchurch;
- (g) [Omitted] Christchurch;
- (h) [Omitted], Christchurch.

[44] The Board finds that no disciplinary offence has been committed as regards [omitted] as it was filed soon after completion.

Disciplinary Penalties

- [45] The grounds upon which a Licensed Building Practitioner may be disciplined are set out in s 317 of the Act. If one or more of the grounds in s 317 applies, then the Board may apply disciplinary penalties as set out in s 318 of the Actⁱ.
- [46] The Board's Complaints Procedures allow the Board to either set out the Board's decision on disciplinary penalty, publication and costs or to invite the Respondent to make submissions on those matters.
- [47] As part of the materials provided to the Board for the Hearing the Respondent provided submissions which were relevant to penalty, publication and costs and the Board has taken these into consideration. Included in this was the nature of the contractual relationship between the Complainant and the Respondent and the circumstances under which the complaint was made.
- [48] The Board has also taken into consideration that there was a pattern of behaviour involving eight properties as an aggravating factor.
- [49] Given the nature of the disciplinary offending, the mitigation already heard and the level of penalty decided on, the Board has decided to dispense with calling for further submissions. The Respondent will, however, be given an opportunity to comment on the level of penalty, costs and on publication should he consider there are further matters which the Board should take into consideration.
- [50] As stated earlier the purposes of professional discipline is to uphold the integrity of the profession; the focus is not punishment, but the enforcement of a high standard of propriety and professional conduct.
- [51] The Board does note, however, that the High Court in *Patel v Complaints Assessment Committee*¹⁰ has, however, commented on the role of "punishment" in giving penalty orders stating that punitive orders are, at times, necessary to uphold professional standards:

[27] Such penalties may be appropriate because disciplinary proceedings inevitably involve issues of deterrence. They are designed in part to deter both the offender and others in the profession from offending in a like manner in the future.

[28] I therefore propose to proceed on the basis that, although the protection of the public is a very important consideration, nevertheless the issues of punishment and deterrence must also be taken into account in selecting the appropriate penalty to be imposed.

¹⁰ HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

- [52] In all the circumstances of the case the Board finds that a fine of \$1,000 is the appropriate penalty. Given the number of properties and records of work involved the Board considered a higher amount was warranted but it has reduced it on the basis of the mitigation heard.

Costs

- [53] Under s 318(4) the Board may require the Respondent “to pay the costs and expenses of, and incidental to, the inquiry by the Board.”
- [54] The Respondent should note that the High Court has held that 50% of total reasonable costs should be taken as a starting point in disciplinary proceedings and that the percentage can then be adjusted up or down having regard to the particular circumstances of each case. The judgement in *Cooray v The Preliminary Proceedings Committee*¹¹ included the following:
- “It would appear from the cases before the Court that the Council in other decisions made by it has in a general way taken 50% of total reasonable costs as a guide to a reasonable order for costs and has in individual cases where it has considered it is justified gone beyond that figure. In other cases, where it has considered that such an order is not justified because of the circumstances of the case, and counsel has referred me to at least two cases where the practitioner pleaded guilty and lesser orders were made, the Council has made a downward adjustment.”*
- [55] The judgment in *Macdonald v Professional Conduct Committee*¹² confirmed the approach taken in *Cooray*. This was further confirmed in a complaint to the Plumbers, Gasfitters and Drainlayers’ Board, *Owen v Wynyard*¹³ where the judgment referred with approval to the passages from *Cooray* and *Macdonald* in upholding a 24% costs order made by the Board.
- [56] In *Collie v Nursing Counsel of New Zealand*¹⁴ where the order for costs in the tribunal was 50% of actual costs and expenses the High Court noted that:
- But for an order for costs made against a practitioner, the profession is left to carry the financial burden of the disciplinary proceedings, and as a matter of policy that is not appropriate. It is not hard to see that the award of costs may have imposed some real burden upon the appellant but it is not fixed at a level which disturbs the Court’s conscience as being excessive. Accordingly it is confirmed.*
- [57] The Board considers the sum of \$750 to be a fair and reasonable sum toward the costs and expenses of, and incidental to, the inquiry by the Board.

Publication of Name

- [58] As a consequence of its decision the Respondent’s name and the disciplinary outcomes will be recorded in the public register maintained as part of the Licensed Building Practitioners’ scheme as required by the Act.

¹¹ HC, Wellington, AP23/94, 14 September 1995

¹² HC, Auckland, CIV 2009-404-1516, 10 July 2009

¹³ High Court, Auckland, CIV-2009-404-005245, 25 February 2010

¹⁴ [2001] NZAR 74

- [59] The Board is also able, under s 318(5) of the Act, to order publication over and above the public register:

In addition to requiring the Registrar to notify in the register an action taken by the Board under this section, the Board may publicly notify the action in any other way it thinks fit.

- [60] As a general principle such further public notification may be required where the Board perceives a need for the public and/or the profession to know of the findings of a disciplinary hearing. This is in addition to the Respondent being named in this decision.

- [61] The Board does not consider that further publication is required.

Penalty, Costs and Publication Decision

- [62] For the reasons set out above, the Board directs that:

Penalty: Pursuant to s 318(1)(f) of the Building Act 2004, the Respondent is ordered to pay a fine of \$1,000.

Costs: Pursuant to s 318(4) of the Act, the Respondent is ordered to pay costs of \$750 (GST included) towards the costs of, and incidental to, the inquiry of the Board.

Publication: The Registrar shall record the Board's action in the Register of Licensed Building Practitioners in accordance with s 301(1)(iii) of the Act.

In terms of section 318(5) of the Act, there will not be action taken to publicly notify the Board's action, except for the note in the register and him being named in this decision.

Submissions on Penalty Costs and Publication

- [63] The Board invites the Respondent to make written submissions on the matters of disciplinary penalties, costs and publication up until close of business on 28 September 2016.

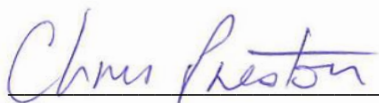
- [64] If no submissions are received then this decision will become final.

- [65] If submissions are received then the Board will meet and consider those submissions prior to coming to a final decision on penalty, costs and publication.

Right of Appeal

- [66] The right to appeal Board decisions is provided for in s 330(2) of the Actⁱⁱ.

Signed and dated this 7th day of September 2016



Chris Preston
Presiding Member

Appendix A

Address	Contents and Records of Work Provided by Mr Kimura
[Omitted]	Carried out - Walls: Erected prenail frames and trusses. Prepared and installed aluminium windows
	Carried out - Roof: Erected prenail trusses and purlins
	Carried out - Columns and Beams:
	Carried out - Bracing: Gib checked at post line. Strapped bracing in roof
[Omitted]	Carried out - Walls: Erected prenail frames and trusses. Prepared and installed aluminium windows
	Carried out - Roof: Erected prenail trusses and purlins
	Carried out - Bracing: Gib checked at post line
	Carried out - Wall Cladding/System: Installed vertical cedar board on cavity system and titan board and window flashings
[Omitted]	Carried out - Walls: Erected prenail frames and trusses
	Carried out - Roof: Erected prenail trusses and purlins
	Carried out - Bracing: Gib checked at post line
[Omitted]	Carried out - Walls: Erected prenail frames and trusses.
	Carried out - Roof: Erected prenail trusses and purlins
	Carried out - Bracing: Strapped bracing to roof. Gib bracing checked at post line
	Carried out - Columns and Beams: Post and beams to plan
[Omitted]	Carried out - Walls: Erected prenail frames and trusses. Prepared and installed aluminium windows
	Carried out - Roof: Erected prenail trusses and purlins
	Carried out - Bracing: Gib checked at post line
[Omitted]	Carried out - Walls: Erected prenail frames and trusses.
	Carried out - Roof: Erected prenail trusses and purlins
	Carried out - Bracing: Gib checked at post line
	Carried out - Wall Cladding/System: Linnea board on cavity to gable end

C2-01198 Redacted Indicative Penalty Decision

Address	Contents and Records of Work Provided by Mr Kimura
[Omitted]	Carried out - Walls: Erected prenail frames and trusses. Prepared and installed aluminium windows
[Omitted]	Carried out - Roof: Erected prenail trusses and purlins
	Carried out - Bracing: Gib checked at post line
[Omitted]	Carried out - Foundations and Subfloor Framing: Built subfloor to engineers design. Signed off by engineer
	Carried out - Walls: Erected prenail frames and trusses. Prepared and installed aluminium windows
	Carried out - Roof: Erected prenail trusses and purlins
	Carried out - Columns and beams: Columns and beams to front entry
	Carried out - Bracing: Gib checked at post line. Strapped bracing in roof
[Omitted]	Carried out - Foundations and Subfloor Framing: Boxed garage floor and erected piles. Signed off by engineer

ⁱ **Section 318 of the Act**

- (1) *In any case to which section 317 applies, the Board may*
- (a) *do both of the following things:*
 - (i) *cancel the person's licensing, and direct the Registrar to remove the person's name from the register; and*
 - (ii) *order that the person may not apply to be relicensed before the expiry of a specified period:*
 - (b) *suspend the person's licensing for a period of no more than 12 months or until the person meets specified conditions relating to the licensing (but, in any case, not for a period of more than 12 months) and direct the Registrar to record the suspension in the register:*
 - (c) *restrict the type of building work or building inspection work that the person may carry out or supervise under the person's licensing class or classes and direct the Registrar to record the restriction in the register:*
 - (d) *order that the person be censured:*
 - (e) *order that the person undertake training specified in the order:*
 - (f) *order that the person pay a fine not exceeding \$10,000.*
- (2) *The Board may take only one type of action in subsection 1(a) to (d) in relation to a case, except that it may impose a fine under subsection (1)(f) in addition to taking the action under subsection (1)(b) or (d).*
- (3) *No fine may be imposed under subsection (1)(f) in relation to an act or omission that constitutes an offence for which the person has been convicted by a court.*
- (4) *In any case to which section 317 applies, the Board may order that the person must pay the costs and expenses of, and incidental to, the inquiry by the Board.*
- (5) *In addition to requiring the Registrar to notify in the register an action taken by the Board under this section, the Board may publicly notify the action in any other way it thinks fit."*

ⁱⁱ **Section 330 Right of appeal**

- (2) *A person may appeal to a District Court against any decision of the Board—*
- (b) *to take any action referred to in section 318.*

Section 331 Time in which appeal must be brought

An appeal must be lodged—

- (a) *within 20 working days after notice of the decision or action is communicated to the appellant; or*
- (b) *within any further time that the appeal authority allows on application made before or after the period expires.*