

## Before the Building Practitioners Board

	BPB Complaint No. CB25198
Licensed Building Practitioner:	Paul Turner (the Respondent)
Licence Number:	BP 108001
Licence(s) Held:	Carpentry and Site AOP 2

---

### Decision of the Board in Respect of the Conduct of a Licensed Building Practitioner Under section 315 of the Building Act 2004

---

Complaint or Board Inquiry	Complaint
Hearing Location	Auckland
Hearing Type:	On the Papers
Draft Decision Date:	30 October 2019
Final Decision Date:	23 March 2020

#### Board Members Present:

Richard Merrifield, LBP, Carpentry and Site AOP 2 (Presiding)  
Mel Orange, Legal Member  
Robin Dunlop, Retired Professional Engineer  
Bob Monteith, LBP Carpentry and Site AOP 2  
Faye Pearson-Green, LBP Design AOP 2  
Rob Shao, LBP, Carpentry and Site AOP 1

#### Procedure:

The matter was considered by the Building Practitioners Board (the Board) under the provisions of Part 4 of the Building Act 2004 (the Act), the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008 (the Complaints Regulations) and the Board's Complaints and Inquiry Procedures.

#### Board Decision:

The Respondent **has** committed a disciplinary offence under section 317(1)(da)(ii) of the Act.

## Contents

<b>Introduction</b> .....	2
<b>Disciplinary Offences Under Consideration</b> .....	3
<b>Function of Disciplinary Action</b> .....	3
<b>Evidence</b> .....	4
<b>Draft Conclusion and Reasoning</b> .....	4
<b>Draft Decision on Penalty, Costs and Publication</b> .....	5
Penalty .....	5
Costs.....	6
Publication .....	7
<b>Draft Section 318 Order</b> .....	7
<b>Submissions on Draft Decision</b> .....	8
<b>Request for In-Person Hearing</b> .....	8
<b>Submissions Made</b> .....	8
<b>Final Decision</b> .....	10
<b>Penalty Submissions</b> .....	10
<b>Final Section 318 Order</b> .....	12
<b>Right of Appeal</b> .....	12

## Introduction

- [1] On 25 September 2019 the Board received a Registrar’s Report in respect of a complaint into the conduct of the Respondent.
- [2] Under regulation 10 of the Complaints Regulations the Board must, on receipt of the Registrar’s Report, decide whether to proceed no further with the complaint because regulation 9 of the Complaints Regulations applies.
- [3] Having received the report the Board decided that regulation 9 did not apply. Under regulation 10 the Board is required to hold a hearing.
- [4] The Board’s jurisdiction is that of an inquiry. Complaints are not prosecuted before the Board. Rather, it is for the Board to carry out any further investigation that it considers is necessary prior to it making a decision. In this respect the Act provides that the Board may regulate its own procedures<sup>1</sup>. It has what is described as a summary jurisdiction in that the Board has a degree of flexibility in how it deals with matters; it retains an inherent jurisdiction beyond that set out in the enabling

---

<sup>1</sup> Clause 27 of Schedule 3

legislation<sup>2</sup>. As such it may depart from its normal procedures if it considers doing so would achieve the purposes of the Act and it is not contrary to the interests of natural justice to do so.

- [5] In this instance the Board has decided that a formal hearing is not necessary. The Board considers that there is sufficient evidence before it to allow it to make a decision on the papers.
- [6] The Board does, however, note that there may be further evidence in the possession of persons involved in the matter or that the Board may not have interpreted the evidence correctly. To that end this decision is a draft Board decision. The Respondent will be provided with an opportunity to make comment on the Board's draft findings and to present further evidence prior to the Board making a final decision. If the Board directs or the Respondent requests an in-person hearing, then one will be scheduled.

#### **Disciplinary Offences Under Consideration**

- [7] On the basis of the Registrar's Report the Respondent's conduct that the Board resolved to investigate was that the Respondent had failed, without good reason, in respect of a building consent that relates to restricted building work that he or she 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).

#### **Function of Disciplinary Action**

- [8] The common understanding of the purpose 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 Kingdom in *R v Institute of Chartered Accountants in England and Wales*<sup>3</sup> and in New Zealand in *Dentice v Valuers Registration Board*<sup>4</sup>.
- [9] Disciplinary action under the Act is not designed to redress issues or disputes between a complainant and a respondent. In *McLanahan and Tan v The New Zealand Registered Architects Board*<sup>5</sup> Collins J. noted that:

*"... the disciplinary process does not exist to appease those who are dissatisfied ... . The disciplinary process ... exists to ensure professional standards are maintained in order to protect clients, the profession and the broader community."*

---

<sup>2</sup> *Castles v Standards Committee No.* [2013] NZHC 2289, *Orlov v National Standards Committee 1* [2013] NZHC 1955

<sup>3</sup> *R v Institute of Chartered Accountants in England and Wales* [2011] UKSC 1, 19 January 2011.

<sup>4</sup> [1992] 1 NZLR 720 at p 724

<sup>5</sup> [2016] HZHC 2276 at para 164

- [10] The Board can only inquire into “the conduct of a licensed building practitioner” with respect to the grounds for discipline set out in section 317 of the Act. It does not have any jurisdiction over contractual matters.

### **Evidence**

- [11] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed<sup>6</sup>. Under section 322 of the Act the Board has relaxed rules of evidence which allow it to receive evidence that may not be admissible in a court of law.
- [12] The Respondent was engaged to carry out building work on a new residential build under a building consent. The Complainant alleged that, following completion of his restricted building work which occurred on or about 27 July 2017 when practical completion occurred. The Respondent initially refused to provide a record of work. One was provided on 5 November 2018.
- [13] The Board was provided with a record of work dated 10 July 2017 which had been jointly provided by the Respondent and another licensed building practitioner. The evidence before the Board was that the record of work was completed in July 2017 but was not provided until November 2018.
- [14] There was also evidence before the Board of an ongoing commercial dispute.

### **Draft Conclusion and Reasoning**

- [15] The Board has decided that the Respondent **has** failed, without good reason, in respect of a building consent that relates to restricted building work that he or she 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) and **should** be disciplined.
- [16] There is a statutory requirement under section 88(1) of the Building Act 2004 for a licensed building practitioner to provide a record of work to the owner and the territorial authority on completion of restricted building work<sup>7</sup>.
- [17] Failing to provide a record of work is a ground for discipline under section 317(1)(da)(ii) of the Act. In order to find that ground for discipline proven, the Board need only consider whether the Respondent had “good reason” for not providing a record of work on “completion” of the restricted building work.
- [18] The Board discussed issues with regard to records of work in its decision C2-01170<sup>8</sup> and gave guidelines to the profession 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

---

<sup>6</sup> *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

<sup>7</sup> Restricted Building Work is defined by the Building (Definition of Restricted Building Work) Order 2011

<sup>8</sup> *Licensed Building Practitioners Board Case Decision C2-01170* 15 December 2015

provided, who a record of work must be provided to and what might constitute a good reason for not providing a record of work.

- [19] The starting point with a record of work is that it is a mandatory statutory requirement whenever restricted building work under a building consent is carried out or supervised by a licensed building practitioner (other than as an owner-builder). Each and every licensed building practitioner who carries out restricted building work must provide a record of work.
- [20] The statutory provisions do not stipulate a timeframe for the licenced person to provide a record of work. The provisions in section 88(1) simply states “on completion of the restricted building work ...”.
- [21] In most situations issues with the provision of a record of work do not arise. The work progresses and records of work are provided in a timely fashion. Completion occurred in July 2017. A record of work was not provided until November 2018. On this basis the Board finds that the record of work was not provided on completion as required and the disciplinary offence has been committed.
- [22] Section 317(1)(da)(ii) of the Act provides for a defence of the licenced building practitioner having a “good reason” for failing to provide a record of work. If they can, on the balance of probabilities, prove to the Board that one exists then it is open to the Board to find that a disciplinary offence has not been committed. Each case will be decided by the Board on its own merits but the threshold for a good reason is high.
- [23] In this instance there was an ongoing dispute. The Board has repeatedly stated that a Record of Work is a statutory requirement, not a negotiable term of a contract. The requirement for it is not affected by the terms of a contract, nor by contractual disputes. Licensed building practitioners should now be aware of their obligations to provide them and their provision should be a matter of routine.

#### **Draft Decision on Penalty, Costs and Publication**

- [24] Having found that one or more of the grounds in section 317 applies the Board must, under section 318 of the Act<sup>i</sup>, consider the appropriate disciplinary penalty, whether the Respondent should be ordered to pay any costs and whether the decision should be published.
- [25] The matter was dealt with on the papers. Included was information relevant to penalty, costs and publication and the Board has decided to make indicative orders and give the Respondent an opportunity to provide further evidence or submissions relevant to the indicative orders.

#### **Penalty**

- [26] The purpose 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. The Board does note, however, that the High Court in

*Patel v Complaints Assessment Committee*<sup>9</sup> commented on the role of "punishment" in giving penalty orders stating that punitive orders are, at times, necessary to provide a deterrent and to uphold professional standards. The Court noted:

*[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.*

- [27] The Board also notes that in *Lochhead v Ministry of Business Innovation and Employment*<sup>10</sup> the court noted that whilst the statutory principles of sentencing set out in the Sentencing Act 2002 do not apply to the Building Act they have the advantage of simplicity and transparency. The court recommended adopting a starting point for penalty based on the seriousness of the disciplinary offending prior to considering any aggravating and/or mitigating factors.
- [28] Record of work matters are at the lower end of the disciplinary scale. The Board's normal starting point for a failure to provide a record of work is a fine of \$1,500. The Board sees no reason to depart from this.

### Costs

- [29] Under section 318(4) the Board may require the Respondent "to pay the costs and expenses of, and incidental to, the inquiry by the Board."
- [30] 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<sup>11</sup>.
- [31] In *Collie v Nursing Council of New Zealand*<sup>12</sup> 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.*
- [32] The Board notes the matter was dealt with on the papers. There has, however, been costs incurred investigating the matter, producing the Registrar's Report and in the Board making its decision. The costs have been less than those that would have been incurred had a full hearing been held. As such the Board will order that costs of \$500 be paid by the Respondent. The Board considers that this is a reasonable sum for the Respondent to pay toward the costs and expenses of, and incidental to, the inquiry by the Board.

<sup>9</sup> HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

<sup>10</sup> 3 November 2016, CIV-2016-070-000492, [2016] NZDC 21288

<sup>11</sup> *Cooray v The Preliminary Proceedings Committee* HC, Wellington, AP23/94, 14 September 1995, *Macdonald v Professional Conduct Committee*, HC, Auckland, CIV 2009-404-1516, 10 July 2009, *Owen v Wynyard* HC, Auckland, CIV-2009-404-005245, 25 February 2010.

<sup>12</sup> [2001] NZAR 74

## Publication

[33] 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 is required by the Act<sup>13</sup>. The Board is also able, under section 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.*

[34] 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.

[35] Within New Zealand there is a principle of open justice and open reporting which is enshrined in the Bill of Rights Act 1990<sup>14</sup>. The Criminal Procedure Act 2011 sets out grounds for suppression within the criminal jurisdiction<sup>15</sup>. Within the disciplinary hearing jurisdiction, the courts have stated that the provisions in the Criminal Procedure Act do not apply but can be instructive<sup>16</sup>. The High Court provided guidance as to the types of factors to be taken into consideration in *N v Professional Conduct Committee of Medical Council*<sup>17</sup>.

[36] The courts have also stated that an adverse finding in a disciplinary case usually requires that the name of the practitioner be published in the public interest<sup>18</sup>. It is, however, common practice in disciplinary proceedings to protect the names of other persons involved as naming them does not assist the public interest.

[37] Based on the above the Board will not order further publication.

## **Draft Section 318 Order**

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

**Penalty:** Pursuant to section 318(1)(f) of the Building Act 2004, the Respondent is ordered to pay a fine of \$1,500.

**Costs:** Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$500 (GST included) towards the costs of, and incidental to, the inquiry of the Board.

---

<sup>13</sup> Refer sections 298, 299 and 301 of the Act

<sup>14</sup> Section 14 of the Act

<sup>15</sup> Refer sections 200 and 202 of the Criminal Procedure Act

<sup>16</sup> *N v Professional Conduct Committee of Medical Council* [2014] NZAR 350

<sup>17</sup> *ibid*

<sup>18</sup> *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055

**Publication:** The Registrar shall record the Board's action in the Register of Licensed Building Practitioners in accordance with section 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 the Respondent being named in this decision.**

[39] The Respondent should note that the Board may, under section 319 of the Act, suspend or cancel a licensed building practitioner's licence if fines or costs imposed as a result of disciplinary action are not paid.

#### **Submissions on Draft Decision**

[40] The Board invites the Respondent to:

- (a) provide further evidence for the Board to consider; and/or
- (b) make written submissions on the Board's findings. Submissions may be on the substantive findings and/or on the findings on penalty, costs and publication.

[41] Submissions and/or further evidence must be filed with the Board by no later than the close of business on 19 November 2019.

[42] If submissions are received, then the Board will meet and consider those submissions.

[43] The Board may, on receipt of any of the material received, give notice that an in-person hearing is required prior to it making a final decision. Alternatively, the Board may proceed to make a final decision which will be issued in writing.

[44] If no submissions or further evidence is received within the time frame specified, then this decision will become final.

#### **Request for In-Person Hearing**

[45] If the Respondent, having received and considered the Board's Draft Decision, considers that an in-person hearing is required then one will be scheduled, and a notice of hearing will be issued.

[46] A request for an in-person hearing must be made in writing to the Board Officer no later than the close of business on 19 November 2019

#### **Submissions Made**

[47] The Board received a submission from the Respondent on 17 November 2019. The Respondent submitted:

*I did not complete record of work (ROW) soon after practical completion as I did not believe we were totally finished under the conditions of the building contract. I detail below supporting information:*

*Outside of our building contract the owners have undertaken landscaping, and in doing so they have attached a masonry wall to the side of the garage wall. This is a retaining wall and back-filled. This has resulted in a major issue in that the garage now leaks, as shown in photographs attached.*

*In order for the client to complete the work, the methodology would involve removing backfill, placing filter cloth, waterproofing and modification to novacoil, drains etc.*

*The garage lined wall that was completed now leaks as a result of the modification by the owner and/or others engaged by the client.*

*The masonry wall added is 2.4m long and approximately .8m high, and runs at a right angle to the garage against the contour of the site.*

*Bearing this in mind, I doubt we would have provided the clients any assistance with a ROW any earlier as we knew there was a potential major issue as detailed that had also been tagged out and the original waterproofing had been tampered with. It was clear any warranties would now be void. This was pointed out to the clients within a couple of months of the homeowners taking possession.*

- [48] The submission made outlines that the owner has undertaken further work which may have compromised the Respondent's restricted building work. There are two reasons why the actions of the owner do not establish a good reason for the Respondent not to provide a record of work sooner than it was provided.
- [49] The first is that the requirement is for a record of work to be provided on completion of the Respondent's restricted building work. The evidence before the Board is that the work was complete. The owner then undertook separate work. That did not change the fact that the Respondent's work was complete.
- [50] The second is that a record of work is not a statement as to quality or compliance of the restricted building work. Providing a record of work is not "signing off" work. It is not to be confused with a producer statement. It is, put simply, a statement of who did or supervised what in the way of restricted building work and is no more than that. In this respect it is 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 section 88(4) provides:

*(4) A record of work given under subsection (1) does not, of itself,—  
create any liability in relation to any matter to which the record of work relates; or 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.*

- [51] Given this the actions of the owner in carrying out landscaping work and the impact it may have had on the restricted building work that had been completed bears no relevance on the obligation to provide one.
- [52] It is also noted that, notwithstanding the submission made, the record of work was dated in July 2017 but was not provided till November 2018. This, in itself, makes it clear that the Respondent had completed the restricted building work in July 2017.

### **Final Decision**

- [53] Given the above the Board affirms its decision that the Respondent failed to provide a record of work on completion contrary to section 317(1)(da)(ii) of the Act.

### **Penalty Submissions**

- [54] The Respondent also made submissions as regards penalty, costs and publication.

*I am at a loss to understand why I am facing a fine and name publication for penalties under the Building Act 2004 for not supplying a ROW in a timely manner, when no consideration is given to the complexity of dealing with a client who wanted to add a masonry wall (please note this is restricted building work) and as a result he now has a leak in this garage.*

- [55] The Respondent went on to outline his experience and reputation as a builder, the impact the commercial dispute has had on the Respondent, and to submit that a note of the disciplinary matter should not appear in the Register. The Respondent submitted the owner should be sanctioned for undertaking restricted building work as should others for their role in his commercial dispute.
- [56] Dealing with sanctions for others the Board does not have any jurisdiction over commercial matters or persons who are not licensed. The provisions of the Act that relate to unlicensed persons carrying out restricted building work are not enforced by the Board. The Ministry of Business Innovation and Employment has exclusive jurisdiction. A complaint should be made to it if the Respondent wishes to pursue the matter.
- [57] In terms of publication within New Zealand there is a principle of open justice and open reporting which is enshrined in the Bill of Rights Act 1990<sup>19</sup>. The Criminal Procedure Act 2011 sets out grounds for suppression within the criminal jurisdiction<sup>20</sup>. Within the disciplinary hearing jurisdiction the courts have stated that the provisions in the Criminal Procedure Act do not apply but can be instructive<sup>21</sup>. In *N v Professional Conduct Committee of Medical Council*<sup>22</sup> the High Court pointed to the following factors:

---

<sup>19</sup> Section 14

<sup>20</sup> Refer ss 200 and 202 of the Criminal Procedure Act

<sup>21</sup> *N v Professional Conduct Committee of Medical Council* [2014] NZAR 350

<sup>22</sup> *ibid*

*The tribunal must be satisfied that suppression is desirable having regard to the public and private interests and consideration can be given to factors such as:*

- *issues around the identity of other persons such as family and employers;*
- *identity of persons involved and their privacy and the impact of publication on them; and*
- *the risk of unfairly impugning the name of other practitioners if the responsible person is not named.*

[58] The courts have also stated that an adverse finding in a disciplinary case usually requires that the name of the practitioner be published in the public interest<sup>23</sup>. It is, however, common practice in disciplinary proceedings to protect the names of other persons involved as naming them does not assist the public interest.

[59] The Board's decision also notes that its decision will be recorded in the Register of Licensed Building Practitioners in accordance with s 301(1)(l)(iii) of the Act. The Register is established by s 298 of the Act and s 299 sets out its purposes which are:

*The purpose of the register is—*

- (a) *to enable members of the public to—*
  - (i) *determine whether a person is a licensed building practitioner and, if so, the status and relevant history of the person's [licensing]; and*
  - (ii) *choose a suitable building practitioner from a list of licensed building practitioners; and*
  - (iii) *know how to contact the building practitioner; and*
  - (iv) *know which licensed building practitioners have been disciplined within the last 3 years; and*
- (b) *to facilitate the administrative, disciplinary, and other functions of the Board and the Registrar under this Act.*

[60] Section 301 sets out the matters to be contained in the Register. The section uses the phrasing "must" which makes the provisions mandatory, not discretionary:

- (1) *The register must contain all of the following information, to the extent that the information is relevant, for each licensed building practitioner whose name is entered in the register:*
  - (l) *information about the status and history of the person's [licensing], particularly—*
    - (i) *the class [in which the person is licensed]; and*
    - (ii) *the date on which the person's name was entered in the register; and*

---

<sup>23</sup> Kewene v Professional Conduct Committee of the Dental Council - [2013] NZAR 1055

(iii) any action taken under section [318](#) on a disciplinary matter in respect of the person in the last 3 years:

- [61] The final provision, action taken under section 318, is the reason why detail on the disciplinary offence must be contained in the Register.
- [62] Taking the above provisions into consideration it is clear that one of the purposes of the Register is to allow informed consumer and providing information as regards disciplinary action helps to facilitate this. It is also clear that the Board has no discretion as regards information on disciplinary action being retained on the Register.
- [63] Finally, in terms of mitigation, the Respondent has brought matters to the Board's attention that it was not previously aware of. Having taken those submissions into account the Board has decided to reduce the fine to \$1,000.

#### **Final Section 318 Order**

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

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

**Costs:** Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$500 (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 section 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 the Respondent being named in this decision.

#### **Right of Appeal**

- [65] The right to appeal Board decisions is provided for in section 330(2) of the Act<sup>ii</sup>.

Signed and dated this 23<sup>rd</sup> day of March 2020



**Richard Merrifield**  
Presiding Member

---

**<sup>i</sup> 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.”*

**<sup>ii</sup> 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.*