



PROFESSIONAL ENGINEERS REGISTRATION BILL 2019

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06 March 2019 ASSEMBLY Second reading

Tim Pallas

Mr PALLAS (Werribee—Treasurer, Minister for Economic Development, Minister for Industrial Relations) (10:09:28): I move: That this bill be now read a second time. I ask that my second-reading speech be incorporated into Hansard. Incorporated speech as follows: Prior to the 2014 election, the Victorian Labor Government committed to 'work with relevant stakeholders on the introduction of a mandatory, statutory registration scheme and work with other jurisdictions to develop a nationally consistent registration scheme for engineers'. The government subsequently brought forward an Engineers Registration Bill to the last Parliament, but it lapsed when the Parliament expired. Despite this, the government remains determined to deliver on its commitment, particularly in light of the recent structural problems with the Opal Tower in Sydney which highlights the problems that can occur with poor engineering. The Bill I present today substantially replicates the 2018 Bill, while also containing some minor and technical amendments to improve terminology. A registration scheme for engineers is an integral part of the government's plan for infrastructure. We have already established Infrastructure Victoria and the Office of Projects Victoria, and appointed the Chief Engineer, to ensure Victoria's infrastructure is world class. We also have many new major projects under way including the Melbourne Metro Rail Tunnel, the West Gate Tunnel and the Level Crossing Removal project. But the Andrews Labor Government's investment in infrastructure is bringing with it an important challenge: a need for suitably qualified and experienced engineers to develop and oversee these projects. However, it is not just in infrastructure where engineers are critical to the state's future economic development. Engineers are central to driving greater innovation and productivity growth across the whole economy, from manufacturing to new energy technologies. This was brought home in the recent Victorian State of Engineering Report, released in October 2018. That report found that engineering-enabled industries are responsible for more than 600,000 jobs and contribute nearly a quarter of Victoria's gross state product. Despite the fundamental role in the economy that engineers have, the often complex nature of their work and the importance of their work in ensuring public safety, most engineers are not required to hold any kind of formal registration or licence. This stands in contrast to almost all other professionals in Victoria, including lawyers, doctors, nurses, architects and teachers. At the moment in Victoria, only engineers engaged in the building industry need to be registered, and even then, coverage is limited to civil, electrical, mechanical and fire safety engineering. Such limited coverage means that only a small proportion of engineers in Victoria has had their qualifications and experience scrutinised. Further, the engineering profession is increasingly globalised. Many of Australia's trading partners have recognised this and have begun to establish engineering registration schemes as an important tool to help promote exports of their engineers' services. A government-backed registration scheme will help give Victorian engineers the edge they need to compete in this global marketplace by giving prospective purchasers of their services the assurance that the engineer they engage is suitably qualified and experienced, and will comply with well-recognised and internationally understood professional benchmarks. The government has undertaken extensive consultation with stakeholders, and I would like to thank those stakeholders for their input into the Bill. The professional associations representing engineers have expressed strong support for the introduction of a registration scheme, and many of those same associations have also

expressed an interest in becoming assessment entities as the registration scheme rolls out to their areas of engineering. This brings me to the key features of the Bill. The Bill in detail The engineers registration scheme that the Bill proposes will at its onset regulate five areas of engineering including civil engineer, structural engineer, mechanical engineer, electrical engineer and fire-safety engineer. A separate endorsement will apply for professional engineers who are 'engaged in the building industry'. Feedback from stakeholders indicates that these areas of engineering cover most of the engineers operating in Victoria. Further, these areas cover about 80 per cent of engineers registered under the Queensland Professional Engineers Act 2002. Registration in these specified areas will be rolled out progressively, with the regulations able to specify when professional engineers in an area of engineering require registration through the use of the exemption power. However, the Bill enables other areas of engineering to be prescribed by regulation. Over time, it is expected that the scheme will expand to cover other areas of engineering. Once rolled out to a particular area of engineering, the registration scheme established by the Bill will prohibit any person from providing professional engineering services in that particular area of engineering unless they are either registered in the area, working under the direct supervision of a professional engineer registered in the area, or working in accordance with a prescriptive standard such as an Australian standard. The Bill will also prohibit unregistered people from representing that they are a registered professional engineer, can provide professional engineering services or are an endorsed building engineer. The registration scheme is based on a co-regulatory registration model which will be managed by the Business Licensing Authority (BLA), with support from Consumer Affairs Victoria (CAV), approved assessment entities, and the Victorian Building Authority (VBA). Reflecting its important new role, membership of the BLA will be expanded to include a person who has qualifications and experience in the field of engineering. The Victorian scheme is modelled closely on the Queensland scheme. However, some differences exist due to differences in legislative requirements in the two jurisdictions. For example, engineers engaged in the building industry in Victoria must hold professional indemnity insurance to underpin certification requirements under section 238 of the Building Act 1993. Under the co-regulatory model, the BLA will approve assessment entities. Before doing so, the BLA will be able to seek the advice of the Chief Engineer. Assessment entities will have to satisfy the BLA that they will be capable of undertaking a range of different matters related to the assessment of an applicant for registration, including assessing qualifications and competencies, ensuring audits of continuing professional development and providing independent and authoritative assessments in a timely fashion. The Bill also sets out the process for revoking an assessment entity's approval if they fail to meet these requirements. After an engineer is approved by the assessment entity, they may then apply to the BLA to be registered. The BLA will also take over registration functions for engineers engaged in the building industry from the VBA once the scheme comes into effect. Before deciding to register an applicant, as well as considering the report of the assessment entity, the BLA will assess whether the engineer meets a number of other eligibility criteria. In addition, the BLA will be able to check a range of probity matters. Where an engineer wishes to be engaged in the building industry, the Bill establishes a process where the VBA can check a range of building-related probity matters in relation to applicants for building industry endorsements, including whether the engineer has the required insurance under the Building Act 1993. The VBA will then report their assessment to the BLA. If satisfied that a person is eligible for registration, the BLA will add the person to the Register of Professional Engineers. This register will enable consumers to check details of the registered professional engineer, including conditions on the registration, as well details of disciplinary matters up to five years old. This will further assist consumers to choose high quality engineering services. Registration will be valid for a period of three years, and the BLA may impose conditions on the registration. After three years, an engineer may renew their registration by applying to the BLA and paying a registration fee. It is expected that a condition for renewal is completion of continuous professional development of 150 hours over the last three years. In addition, it is expected that assessment entities will also have to conduct regular audits of CPD. If an application for a registration or registration renewal is

refused by the BLA, or a condition is imposed, the applicant will be able to seek review of the decision by the Victorian Civil and Administrative Tribunal (VCAT). Engineers who are already registered under the Building Act will have those registrations recognised under the new scheme. Further, because engineers who have been registered under the Building Act in the past may not have the necessary qualifications to meet assessment scheme standards, they will be given up to 5 years to complete any necessary training. The Bill also sets up a disciplinary system that will see CAV or the VBA taking the lead, depending on whether an engineer has an endorsement. Where an engineer has been engaged in both building-related and non-building related engineering, if the engineer is an endorsed building engineer, the VBA will take the lead on investigating and disciplining the engineer in relation to the endorsement. This dual regulator approach has been proposed to ensure that the VBA can continue to carry out 'end to end' investigations of non-compliant building work. Endorsed building engineers will be subject to the disciplinary grounds of the Building Act in relation to their endorsement. They will be subject to the grounds in the Professional Engineers Registration Act in relation to their registration. Disciplinary sanctions for engineers under the Bill will be similar to those available under the Building Act to ensure that engineers face consistent outcomes regardless of whether their misconduct was building-related or not. Disciplinary procedures will be slightly different. It is expected that CAV will generally apply directly to VCAT for disciplinary action in relation to a registration, while the VBA will use the show cause process in the Building Act 1993 in relation to an endorsement. In practice, outcomes from these processes are likely to be consistent, because engineers who are dissatisfied with a proposed sanction imposed by the VBA may apply to VCAT for a review of that sanction. The Bill also sets out a range of entry powers available to the Director of Consumer Affairs Victoria. It also applies a range of powers under the Australian Consumer Law and Fair Trading Act 2012 to ensure courts can order redress or make a range of other orders consistent with other consumer Acts administered by CAV. The VBA will rely on entry powers under the Building Act 1993 in relation to engineers who have a building industry endorsement. The engineers registration scheme proposed by the Bill will: help to promote professional development within the engineering profession; reduce the risk of loss and harm to the public; and give consumers more confidence in procuring engineering services. It will also improve opportunities for the export of engineering services by Victorian engineers. I commend the Bill to the house.