



Queensland

Plumbing and Drainage and Other Legislation Amendment Act 2005

Act No. 39 of 2005



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Queensland

Plumbing and Drainage and Other Legislation Amendment Act 2005

Act No. 39 of 2005

**An Act to amend the *Plumbing and Drainage Act 2002*, and for
other purposes**

[Assented to 1 September 2005]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Plumbing and Drainage and Other Legislation Amendment Act 2005*.

2 Commencement

This Act, other than the following provisions, commences on 1 March 2006—

- (a) section 11;
- (b) section 22, to the extent it inserts the *Plumbing and Drainage Act 2002*, section 85A;
- (c) section 46(2), to the extent it inserts the *Plumbing and Drainage Act 2002*, schedule, definitions *greywater*, *greywater diversion device*, *greywater treatment plant*, *greywater use facility*, *investigator* and *sewered area*.

Part 2 Amendment of Integrated Planning Act 1997

3 Act amended in pt 2

This part amends the *Integrated Planning Act 1997*.

4 Amendment of s 4.2.12A (Appeals for plumbing and drainage matters)

Section 4.2.12A(1)—
omit, insert—

- ‘(1) A person who has been given an information notice under the *Plumbing and Drainage Act 2002* about a decision under part 4 or 5¹ of that Act may appeal against the decision to a tribunal.’.

Part 3 **Amendment of Local Government Act 1993**

5 **Act amended in pt 3**

This part amends the *Local Government Act 1993*.

6 **Amendment of s 1071A (Power to fix regulatory fees)**

Section 1071A(1)(e), ‘or the *Integrated Planning Act 1997*, chapter 5, part 3’—

omit, insert—

‘, the *Integrated Planning Act 1997*, chapter 5, part 3² or the *Plumbing and Drainage Act 2002*’.

7 **Amendment of schedule (Dictionary)**

Schedule, definitions *on-site sewage treatment plant* and *on-site sewerage facility*—

omit, insert—

‘*on-site sewage treatment plant* see *Plumbing and Drainage Act 2002*, schedule.

on-site sewerage facility see *Plumbing and Drainage Act 2002*, schedule.’.

1 *Plumbing and Drainage Act 2002*, part 4 (Compliance assessment) or 5 (Chief executive approvals)

2 *Integrated Planning Act 1997*, chapter 5, part 3 (Private certification)

Part 4 Amendment of Plumbing and Drainage Act 2002

8 Act amended in pt 4

This part amends the *Plumbing and Drainage Act 2002*.

9 Amendment of s 29 (Secretary and other officers)

(1) Section 29, heading—

omit, insert—

‘29 Officers, employees and agents’.

(2) Section 29—

insert—

‘(5) The chief executive may, by instrument, employ or engage other appropriately qualified persons to help the board perform its functions.

‘(6) Subsection (5) does not apply for the appointment of an investigator.³’.

10 Insertion of new s 29A

After section 29—

insert—

‘29A Delegation by secretary

‘The secretary may delegate the secretary’s powers under this Act to an appropriately qualified public service officer or employee.’.

11 Insertion of new pt 2, div 8

Part 2—

insert—

3 For investigators, see division 8 (Board investigators and their powers).

‘Division 8 Board investigators and their powers

‘Subdivision 1 Investigators

‘33A Appointment

- ‘(1) The chief executive may appoint a public service officer or employee as an investigator.
- ‘(2) However, the chief executive may appoint a person as an investigator only if the chief executive is satisfied the person is qualified for appointment because the person has the necessary expertise or experience.

‘33B Function

‘The function of an investigator is to investigate compliance with this Act in relation to licensing.

‘33C Appointment conditions and limit on powers

- ‘(1) An investigator holds office on any conditions stated in—
 - (a) the investigator’s instrument of appointment; or
 - (b) a signed notice given to the investigator; or
 - (c) a regulation.
- ‘(2) The instrument of appointment, a signed notice given to the investigator or a regulation may limit the investigator’s powers under this Act.
- ‘(3) In this section—
signed notice means a notice signed by the chief executive.

‘33D Issue of identity card

- ‘(1) The chief executive must issue an identity card to each investigator.

- ‘(2) The identity card must—
 - (a) contain a recent photo of the investigator; and
 - (b) contain a copy of the investigator’s signature; and
 - (c) identify the person as an investigator under this Act; and
 - (d) state an expiry date for the card.
- ‘(3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

‘33E Production or display of identity card

- ‘(1) In exercising a power under this Act in relation to a person, an investigator must—
 - (a) produce the investigator’s identity card for the person’s inspection before exercising the power; or
 - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- ‘(2) However, if it is not practicable to comply with subsection (1), the investigator must produce the identity card for the person’s inspection at the first reasonable opportunity.
- ‘(3) For subsection (1), an investigator does not exercise a power in relation to a person only because the investigator has entered a place as mentioned in section 33I(1)(b) or (2).⁴

‘33F When investigator ceases to hold office

- ‘(1) An investigator ceases to hold office if any of the following happens—
 - (a) the term of office stated in a condition of office ends;
 - (b) under another condition of office, the investigator ceases to hold office;
 - (c) the investigator’s resignation under section 33G takes effect.

4 Section 33I (Power to enter places)

- ‘(2) Subsection (1) does not limit the ways an investigator may stop holding office.
- ‘(3) In this section—
condition of office means a condition on which the investigator holds office.

‘33G Resignation

‘An investigator may resign by signed notice given to the chief executive.

‘33H Return of identity card

‘A person who ceases to be an investigator must return the person’s identity card to the chief executive within 21 days after ceasing to be an investigator unless the person has a reasonable excuse.

Maximum penalty—25 penalty units.

‘Subdivision 2 Entry to places

‘33I Power to enter places

- ‘(1) An investigator may enter a place if—
- (a) its occupier consents to the entry; or
 - (b) it is a public place and the entry is made when it is open to the public; or
 - (c) the entry is authorised by a warrant.
- ‘(2) For the purpose of asking the occupier of a place for consent to enter, an investigator may, without the occupier’s consent or a warrant—
- (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or

- (b) enter part of the place the investigator reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

‘33J Entry with consent

- ‘(1) This section applies if an investigator intends to ask an occupier of a place to consent to the investigator or another investigator entering the place under section 33I(1)(a).
- ‘(2) Before asking for the consent, the investigator must tell the occupier—
 - (a) the purpose of the entry; and
 - (b) that the occupier is not required to consent.
- ‘(3) If the consent is given, the investigator may ask the occupier to sign an acknowledgment of the consent.
- ‘(4) The acknowledgment must state—
 - (a) the occupier has been told—
 - (i) the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
 - (b) the purpose of the entry; and
 - (c) the occupier gives the investigator consent to enter the place and exercise powers under this part; and
 - (d) the time and date the consent was given.
- ‘(5) If the occupier signs the acknowledgment, the investigator must immediately give a copy to the occupier.
- ‘(6) If—
 - (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
 - (b) an acknowledgment complying with subsection (4) for the entry is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

‘33K Application for warrant

- ‘(1) An investigator may apply to a magistrate for a warrant for a place.
- ‘(2) The investigator must prepare a written application that states the grounds on which the warrant is sought.
- ‘(3) The written application must be sworn.
- ‘(4) The magistrate may refuse to consider the application until the investigator gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example for subsection (4)—

The magistrate may require additional information supporting the written application to be given by statutory declaration.

‘33L Issue of warrant

- ‘(1) The magistrate may issue the warrant for the place only if the magistrate is satisfied there are reasonable grounds for suspecting—
 - (a) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against this Act; and
 - (b) the evidence is at the place or, within the next 7 days, will be at the place.
- ‘(2) The warrant must state—
 - (a) the place to which the warrant applies; and
 - (b) that a stated investigator may, with necessary and reasonable help and force—
 - (i) enter the place and any other place necessary for entry to the place; and
 - (ii) exercise the investigator’s powers under this part; and
 - (c) particulars of the offence that the magistrate considers appropriate in the circumstances; and
 - (d) the name of the person suspected of having committed the offence, unless the name is unknown or the

magistrate considers it inappropriate to state the name;
and

- (e) the hours of the day or night when the place may be entered; and
- (f) the magistrate's name; and
- (g) the date and time of the warrant's issue; and
- (h) the date, within 14 days after the warrant's issue, the warrant ends.

'33M Application by electronic communication and duplicate warrant

- '(1) An application under section 33K⁵ may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the investigator considers it necessary because of—
 - (a) urgent circumstances; or
 - (b) other special circumstances, including, for example, the investigator's remote location.
- '(2) The application—
 - (a) may not be made before the investigator prepares the written application under section 33K(2); but
 - (b) may be made before the written application is sworn.
- '(3) The magistrate may issue the warrant (the *original warrant*) only if the magistrate is satisfied—
 - (a) it was necessary to make the application under subsection (1); and
 - (b) the way the application was made under subsection (1) was appropriate.
- '(4) After the magistrate issues the original warrant—
 - (a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the investigator, for

5 Section 33K (Application for warrant)

example, by sending a copy by fax or email—the magistrate must immediately give a copy of the warrant to the investigator; or

(b) otherwise—

(i) the magistrate must tell the investigator the date and time the warrant is issued and the other terms of the warrant; and

(ii) the investigator must complete a form of warrant, including by writing on it—

(A) the magistrate’s name; and

(B) the date and time the magistrate issued the warrant; and

(C) the other terms of the warrant.

‘(5) The copy of the warrant mentioned in subsection (4)(a), or the form of warrant completed under subsection (4)(b) (in either case the ***duplicate warrant***) is a duplicate of, and as effectual as, the original warrant.

‘(6) The investigator must, at the first reasonable opportunity, send to the magistrate—

(a) the written application complying with 33K(2) and (3); and

(b) if the investigator completed a form of warrant under subsection (4)(b)—the completed form of warrant.

‘(7) The magistrate must keep the original warrant and, on receiving the documents under subsection (6)—

(a) attach the documents to the original warrant; and

(b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.

‘(8) Despite subsection (5), if—

(a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and

(b) the original warrant is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.

‘(9) This section does limit section 33K.

‘(10) In this section—

relevant magistrates court, in relation to a magistrate, means the Magistrates Court that the magistrate constitutes under the *Magistrates Act 1991*.

‘33N Defect in relation to a warrant

‘(1) A warrant is not invalidated by a defect in the warrant or in compliance with section 33K, 33L or 33M unless the defect affects the substance of the warrant in a material particular.

‘(2) In this section—

warrant includes a duplicate warrant mentioned in section 33M(5).

‘33O Warrants—procedure before entry

‘(1) This section applies if an investigator named in a warrant issued under this part for a place is intending to enter the place under the warrant.

‘(2) Before entering the place, the investigator must do, or make a reasonable attempt to do, the following things—

- (a) identify himself or herself to a person present at the place who is an occupier of the place by producing a copy of the investigator’s identity card, or having the identity card displayed, as mentioned in section 33E(1);⁶
- (b) give the person a copy of the warrant;
- (c) tell the person the investigator is permitted by the warrant to enter the place;
- (d) give the person an opportunity to allow the investigator immediate entry to the place without using force.

6 Section 33E (Production or display of identity card)

‘(3) However, the investigator need not comply with subsection (2) if the investigator believes that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

‘(4) In this section—

warrant includes a duplicate warrant mentioned in section 33M(5).

‘Subdivision 3 Powers of investigators

‘33P General powers of investigator after entering places

‘(1) This division applies to an investigator who enters a place under section 33I(1).⁷

‘(2) For performing the investigator’s function under this Act,⁸ the investigator may do any of the following—

- (a) search any part of the place;
- (b) inspect, measure, test, photograph or film any part of the place or anything at the place;
- (c) copy, or take an extract from, a document at the place;
- (d) take into or onto the place any person, equipment and materials the investigator reasonably requires for exercising a power under paragraphs (a) to (c).

‘33Q Power to require reasonable help or information

‘(1) The investigator may require the occupier of the place, or a person at the place, to give the investigator, reasonable help or information to exercise a power under section 33P(2).

‘(2) When making a requirement under subsection (1), the investigator must warn the person it is an offence to fail to

7 Section 33I (Power to enter places)

8 See section 33B (Function).

comply with the requirement unless the person has a reasonable excuse.

- ‘(3) A person of whom a requirement under subsection (1) has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- ‘(4) If the person is an individual, it is a reasonable excuse for the person not to comply with the requirement if complying with it might tend to incriminate the person.
- ‘(5) Subsection (4) does not limit what may be a reasonable excuse under subsection (3).

‘33R Power to require name and address

- ‘(1) This section applies if—
- (a) the investigator finds a person committing an offence against this Act; or
 - (b) the investigator finds a person in circumstances that lead, or has information that leads, the investigator to reasonably believe the person has just committed an offence against this Act.
- ‘(2) The investigator may require the person to state the person’s name and residential address.
- ‘(3) When making the requirement, the investigator must warn the person it is an offence to fail to state the person’s name or residential address unless the person has a reasonable excuse.
- ‘(4) The investigator may also require the person to give evidence of the correctness of the stated name or required address if, in the circumstances, it would be reasonable to expect the person to—
- (a) be in possession of evidence of the correctness of the stated name or address; or
 - (b) otherwise be able to give the evidence.

‘33S Power to require production of documents

- ‘(1) The investigator may require a person to make available for inspection by an investigator, or produce to the investigator for inspection, at a reasonable time and place nominated by the investigator, a document given to the person under this Act.
- ‘(2) The investigator may ask the person to give the investigator a copy of the document within a reasonable period.
- ‘(3) If a request under subsection (2) is not complied with within a reasonable period, the investigator may take the document to copy it.
- ‘(4) The investigator must return the document to the person as soon as practicable after copying it.

‘33T Failure to state name and address or produce document

- ‘(1) A person of whom a requirement under section 33R(2) or 33S(1) has been made must comply with the requirement unless the person has a reasonable excuse.
Maximum penalty—40 penalty units.
- ‘(2) It is a reasonable excuse for an individual not to comply with the requirement if complying with it might tend to incriminate the individual.
- ‘(3) Subsection (2) does not limit what may be a reasonable excuse under subsection (1).

‘Subdivision 4 Miscellaneous provisions**‘33U Notice of damage**

- ‘(1) This section applies if—
 - (a) an investigator damages property when exercising or purporting to exercise a power; or
 - (b) a person (the *other person*) acting under the direction of an investigator damages property.

-
- ‘(2) The investigator must, as soon as practicable, give written notice of particulars of the damage to a person who appears to the investigator to be an owner of the property.
- ‘(3) If the investigator believes the damage was caused by a latent defect in the property or circumstances beyond the investigator’s or other person’s control, the investigator may state the belief in the notice.
- ‘(4) If, for any reason, it is impracticable to comply with subsection (2), the investigator must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.
- ‘(5) This section does not apply to damage the investigator reasonably believes is trivial.
- ‘(6) In this section—
owner, of property, includes the person in possession or control of it.

‘33V Compensation

- ‘(1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under this division.
- ‘(2) Without limiting subsection (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under this division.
- ‘(3) Compensation may be claimed and ordered to be paid in a proceeding brought in a court with jurisdiction for the recovery of the amount of compensation claimed.
- ‘(4) A court may order compensation to be paid only if it is satisfied it is fair to make the order in the circumstances of the particular case.’.

12 Amendment of s 40 (Decision on application for licence)

Section 40(2)—

omit, insert—

-
- ‘(2) The board may act under subsection (1)(b) only if—
- (a) the applicant has not had an interstate or New Zealand licence suspended or cancelled; and
 - (b) at least 1 of the following applies—
 - (i) the board reasonably considers the applicant needs more practical experience before being licensed;
 - (ii) the board reasonably considers the applicant does not have the qualifications required under section 37(a),⁹ but does have enough practical experience to be able to perform work under the provisional licence;
 - (iii) the board reasonably considers the applicant holds a relevant corresponding licence;
 - (iv) the board reasonably considers the applicant has the qualifications and experience required under section 37(a), but evidence of them has not been given to the board.
- ‘(3) However, subsection (2)(a) does not apply if the applicant holds an interstate or New Zealand licence that is in force.
- ‘(4) In this section—
- relevant corresponding licence*** means any of the following—
- (a) an interstate or New Zealand licence;
 - (b) a licence, however called, issued in another country, that allows the applicant to perform part of the work to which the licence application relates.’.

13 Amendment of s 64 (Grounds for discipline)

- (1) Section 64(e) and (f)—
renumber as section 64(g) and (h).
- (2) Section 64—
insert—

9 Section 37 (Entitlement to licence)

- ‘(e) directed someone else to perform work, or supervised someone else in the performance of work, in contravention of section 120;¹⁰ or
- ‘(f) has performed work—
 - (i) that is not work for which the licensee’s licence was issued; and
 - (ii) for which a licence is required; or’.

14 Amendment of s 78 (Compliance permit)

- (1) Section 78, after ‘regulated work’—
insert—
‘or on-site sewerage work’.
- (2) Section 78(4), ‘the owners,’—
omit, insert—
‘the owner’s¹¹’.

15 Amendment of s 79 (Compliance certificate)

- (1) Section 79, after ‘regulated work’—
insert—
‘or on-site sewerage work’.
- (2) Section 79—
insert—
‘(2) Subject to sections 86D(3) and 86E to 86G, a compliance certificate has effect until the premises to which certificate relates are demolished or removed.

10 Section 120 (Offence of directing or supervising unlicensed work)

11 See also section 116(3)(b) (Enforcement notices).

- ‘(3) A compliance certificate attaches to the land the subject of the certificate, and binds the owner, the owner’s successors in title and any occupier of the land.¹²’.

16 Amendment of s 80 (Purpose of compliance assessment)

Section 80, after ‘regulated work’—

insert—

‘or on-site sewerage work’.

17 Amendment of s 81 (Regulated work must be assessed for compliance)

Section 81, after ‘Regulated work’—

insert—

‘and on-site sewerage work’.

18 Amendment of s 82 (Plans and all plumbing and drainage work must comply)

- (1) Section 82, heading, after ‘plumbing and drainage work’—

insert—

‘or on-site sewerage work’.

- (2) Section 82(1), after ‘plumbing or drainage work’—

insert—

‘or on-site sewerage work’.

12 See also section 128B (Owner’s obligation to ensure compliance with conditions of compliance certificate).

19 Amendment of s 83 (Compliance permit required for certain regulated work)

- (1) Section 83, heading, after ‘regulated work’—
insert—
‘or any on-site sewerage work’.
- (2) Section 83(1), after ‘regulated work’—
insert—
‘or on-site sewerage work’.
- (3) Section 83(1), after ‘for the work’—
insert—
‘and complies with any conditions of the permit’.

20 Amendment of s 84 (Regulated work by a public sector entity)

- (1) Section 84, heading, after ‘Regulated work’—
insert—
‘or on-site sewerage work’.
- (2) Section 84(1), after ‘regulated work’—
insert—
‘or on-site sewerage work’.

21 Amendment of s 85 (Process for assessing plans)

- (1) Section 85(1), words before paragraph (a)—
omit, insert—
‘(1) This section applies, subject to sections 85A to 85E, to a request (a ***compliance request***) for compliance assessment of a plan for regulated work or on-site sewerage work.
- ‘(1A) A compliance request must be—’.

(2) Section 85(6)—

*insert—**‘Example—*

A condition of a compliance permit for on-site sewerage work may require the owner of the relevant premises to install a grease arrester for the premises.’.

(3) Section 85(1A) to (9)—

renumber as section 85(2) to (10).

(4) Section 85(9), as renumbered, ‘subsection (4)’—

*omit, insert—**‘subsection (5)’.*

(5) Section 85—

insert—

‘(11) If an information request is made and the local government does not receive the information requested within the following period, the compliance request lapses—

- (a) generally—1 year after the request was made;
- (b) if, within the year, the local government agrees to a longer period—the longer period.

‘(12) If the compliance request lapses under subsection (11), the fee that accompanied the application is not refundable.’.

22 Insertion of new ss 85A to 85E

Part 4, division 3, after section 85—

insert—

‘85A Local government’s power to stop further greywater use facility requests for premises in a sewered area

- ‘(1) A local government may, by resolution, decide that no further compliance requests can be made to it for regulated work to the extent the work is for, or includes, a greywater use facility (a *greywater use facility request*) for premises in a sewered area.

-
- ‘(2) The local government must—
- (a) as soon as practicable after the resolution takes effect, give the chief executive a copy; and
 - (b) while resolution has effect, ensure a copy is open to inspection under the *Local Government Act 1993*.
- ‘(3) While the resolution is in effect, a greywater use facility request can not be made to the local government for premises in a sewered area.
- ‘(4) To remove any doubt, it is declared that subsection (3) does not affect—
- (a) a greywater use facility request made to the local government before the resolution took effect; or
 - (b) a compliance permit or compliance certificate given by the local government before the resolution took effect for regulated work for, or that includes, a greywater use facility; or
 - (c) the operation of section 128M.¹³

‘85B Restrictions on giving compliance permit for greywater use facility in a sewered area

- ‘(1) This section applies to a compliance request only to the extent it is for regulated work for, or that includes, a greywater use facility in a sewered area.¹⁴
- ‘(2) A compliance permit may be granted for the work only if—
- (a) the premises at which the facility is proposed to be installed—
 - (i) is—

13 Section 128M (Offences about discharging greywater other than kitchen greywater from premises)

14 See also section 128M (Offences about discharging greywater other than kitchen greywater from premises).

-
- (A) classified under the Building Code of Australia as a class 1a building;¹⁵ or
 - (B) being used, or proposed to be used, for a use prescribed under the Standard Plumbing and Drainage Regulation; and
 - (ii) generates greywater of less than 3000L a day; and
 - (iii) is not—
 - (A) part of a community titles scheme under the *Body Corporate and Community Management Act 1997*; or
 - (B) in an area that the local government has, by resolution or in a planning instrument under the *Integrated Planning Act 1997*, declared to be unsuitable for greywater use; and
 - (b) either—
 - (i) the facility's greywater treatment plant has a chief executive approval; or
 - (ii) the facility's greywater diversion device has plumbing code authorisation and certification; and
 - (c) the facility's greywater treatment plant and greywater diversion device have a connection to sanitary drainage; and
 - (d) greywater can be diverted to sanitary drainage by a manual diversion device; and
 - (e) greywater can automatically overflow to sanitary drainage if the facility's filtering or irrigation system does not work or does not work properly.

15 Building Code of Australia, 2005 edition, part A3.2—

'Classifications

Buildings are classified as follows:...

Class 1a—a single dwelling being—

- (i) a detached house; or
- (ii) one or more attached dwellings, each being a building, separated by a *fire resisting* wall, including a row house, terrace house, town house or villa units. '.

- ‘(3) In making the resolution or instrument or deciding an application for a compliance permit, the local government must consider any criteria prescribed under the Standard Plumbing and Drainage Regulation.

‘85C Restrictions on giving compliance permit for greywater use facility not in a sewered area

- ‘(1) This section applies to a compliance request only to the extent it is for regulated work for, or that includes, a greywater use facility not in a sewered area.
- ‘(2) A compliance permit may be granted for the work only if—
- (a) the facility complies with the Standard Plumbing and Drainage Regulation; and
 - (b) the local government is satisfied—
 - (i) there is enough water available to the premises at which the facility is proposed to be installed to operate the facility; and
 - (ii) either—
 - (A) there is enough suitable land available as part of the premises to allow greywater from the facility to be used on the land; or
 - (B) a suitable alternative arrangement has been made for the use of the greywater; and
 - (c) either—
 - (i) the facility’s greywater treatment plant has a chief executive approval; or
 - (ii) the facility’s greywater diversion device has plumbing code authorisation and certification.
- ‘(3) However, subsection (2)(c) does not apply if the facility is for testing purposes.

‘85D Restrictions on giving compliance permit for particular on-site sewerage work

- ‘(1) This section applies to a compliance request for on-site sewerage work other than work that is for, or includes, a greywater use facility.
- ‘(2) A compliance permit may be granted for the on-site sewerage work only if—
 - (a) either—
 - (i) the premises on which the on-site sewerage work is to be performed is outside a sewered area; or
 - (ii) the on-site sewerage facility for which the on-site sewerage work is to be performed is required as part of common effluent drainage; and
 - (b) the local government is satisfied—
 - (i) there is enough water available to the premises to operate the on-site sewerage facility; and
 - (ii) either—
 - (A) there is enough suitable land available as part of the premises to dispose of effluent from the on-site sewerage facility; or
 - (B) a suitable alternative arrangement has been made to dispose of the effluent; and
 - (iii) the on-site sewerage facility is otherwise appropriate for the premises; and
 - (c) any item for the on-site sewerage work for which a chief executive approval is required under this Act complies with a chief executive approval; and
 - (d) any septic tank for the on-site sewerage work complies with the Standard Plumbing and Drainage Regulation.
- ‘(3) However, subsection (2)(c) and (d) does not apply if the on-site sewerage work is for testing purposes.

‘85E Special provisions for assessing plan for work for testing purposes

- ‘(1) This section applies for assessing a compliance request for work for testing purposes.
- ‘(2) The period of 10 business days under section 85(4) is changed to 20 business days.
- ‘(3) Subsections (4) and (5) apply instead of section 85(5) and apply for the time mentioned in section 85(9).
- ‘(4) The compliance request must be decided within—
 - (a) generally, the period (the *usual period*) that ends 40 business days after—
 - (i) if an information request is not made—receipt of the compliance request; or
 - (ii) if an information request is made—receipt of the information requested; or
 - (b) if, within the usual period, the local government decides to extend the decision period to a longer period—the extended period.
- ‘(5) The extended period must not end more than 40 business days after the usual period.’.

23 Amendment of pt 4, div 4, hdg (Assessing plumbing and drainage work)

Part 4, division 4, heading, after ‘plumbing and drainage work’—

insert—

‘and on-site sewerage work’.

24 Amendment of s 86 (Process for assessing regulated work)

- (1) Section 86, heading—

omit, insert—

‘86 General process for assessing regulated work and on-site sewerage work’.

- (2) Before section 86(1)—

insert—

‘(1AA) This section applies, subject to sections 86B and 86C, for assessing the following work (the **work**)—

- (a) regulated work other than regulated work mentioned in section 86A(1);
- (b) on-site sewerage work.’.

- (3) Section 86(1), ‘regulated work’—

omit, insert—

‘the work’.

- (4) Section 86—

insert—

‘(2A) However, a request for compliance assessment that is for, or that includes, a greywater use facility for testing purposes may be made only if a testing approval has been granted for the facility.

‘(3A) However, if the work is on-site sewerage work, the local government may decide not to carry out the assessment if an approved person for the assessment gives it a notice (a **notice of compliance**) in the approved form verifying that the work complies with—

- (a) the relevant compliance permit; and
- (b) the Standard Plumbing and Drainage Regulation.’.

- (5) Section 86(3), ‘a regulation’—

omit, insert—

‘the Standard Plumbing and Drainage Regulation’.

- (6) Section 86(4), after ‘assessing the work’—

insert—

‘or, if a notice of compliance is given, the giving of the notice,’.

-
- (7) Section 86(5), after ‘The request’—
insert—
‘for compliance assessment’.
- (8) Section 86(8), ‘subsection (5)’—
omit, insert—
‘subsection (8)’.
- (9) Section 86(1AA) to (9)—
renumber as section 86(1) to (12).
- (10) Section 86—
insert—
- ‘(13) In this section—
approved person, for assessment of on-site sewerage work,
means the person who designed the on-site sewerage facility
to which the work relates and who—
- (a) in the local government’s opinion, is competent to give a
notice of compliance; and
 - (b) if the person is required by law to be registered or
licensed under a law applying in the State to practise in
the aspect of the work—is so registered or licensed.’.

25 Amendment of s 86A (Process for assessing certain regulated work in remote areas)

Section 86A, after ‘regulated work’—
insert—
‘or on-site sewerage work’.

26 Insertion of new ss 86B to 86G

After section 86A—

insert—

‘86B Special provisions for assessing on-site sewerage work for testing purposes

- ‘(1) This section applies for a request for compliance assessment for on-site sewerage work for testing purposes.
- ‘(2) A person can make the request only if a testing approval has been granted for the facility to which the work relates.
- ‘(3) The request must be decided within 10 business days—
 - (a) if the local government has not asked for the plan—after assessing the completed work; or
 - (b) if the local government has asked for the plan—after it receives the plan.

‘86C Conditions of compliance certificate

- ‘(1) Conditions can not be imposed on a compliance certificate for regulated work other than for a greywater use facility.
- ‘(2) Conditions may be imposed on a compliance certificate for regulated work for a greywater use facility only if they relate to the ongoing operation, maintenance or testing of the facility.

Example—

a condition requiring the owner of the relevant premises to maintain, in a stated way, the facility’s filtering system

- ‘(3) Conditions may be imposed on a compliance certificate for on-site sewerage work only if they relate to the ongoing operation, maintenance or testing of the relevant on-site sewerage facility.

Examples—

- 1 A condition could require the owner of the relevant premises to do all or any of the following—
 - keep an area of land (commonly called a ‘land application area’) in reserve for the future replacement of effluent disposal in relation to the facility
 - maintain any grease arrester for the premises in a stated way

- have in place an arrangement for the carrying out of stated maintenance of the relevant on-site sewerage facility with a person who can lawfully do so
 - replace a part of the facility at stated intervals.
- 2 If the relevant on-site sewerage facility includes a sewage treatment plant, a condition could require the owner of the relevant premises not to dispose of effluent from the plant by spraying or in another way that produces aerial mists or sprays.

‘Division 4A Compliance certificates

‘86D Effect of later grant of chief executive approval

- ‘(1) This section applies if—
- (a) a compliance certificate is given for work for testing purposes; and
 - (b) after the giving of the certificate, a chief executive approval is granted for each item relating to the work.
- ‘(2) The certificate continues in force.
- ‘(3) However, the local government may replace the certificate with a new certificate that has different conditions for the ongoing operation, maintenance or testing of the relevant greywater use facility or on-site sewerage facility.

‘86E Effect of refusal or withdrawal of application for chief executive approval

- ‘(1) This section applies if—
- (a) a compliance certificate is given for work for testing purposes; and
 - (b) after the giving of the certificate, an application for a chief executive approval for an item for the work is refused or withdrawn.
- ‘(2) The certificate ceases to have any effect.
- ‘(3) The local government may, by written notice, require the former holder of the certificate to remove all or a stated part of the relevant greywater use facility or on-site sewerage facility.

- ‘(4) The former holder must comply with the notice as soon as practicable after receiving it.

Maximum penalty for subsection (4)—100 penalty units.

‘86F Ending of particular compliance certificates for testing

‘A compliance certificate given for work for testing purposes ceases to have effect if any chief executive approval for an item that relates to the work ends.¹⁶

‘86G Power to amend conditions of particular compliance certificates

- ‘(1) The local government may, by complying with subsections (2) and (3), amend a condition of a compliance certificate for work for testing purposes if it considers the amendment is necessary or desirable because of a change in a relevant chief executive approval.
- ‘(2) The local government must give the owner of the premises for which the certificate was given a written notice stating—
- (a) the proposed amendment, and the reasons for it; and
 - (b) that the owner may, within a stated reasonable period, make written submissions to the local government about the proposal.
- ‘(3) The local government must consider any written submissions made by the owner within the stated period.
- ‘(4) If the local government decides to make the amendment, it must give the owner an information notice about the decision.’.

27 Replacement of s 87 (Minor work)

Section 87—

¹⁶ For when chief executive approval ends, see section 96 (Term of chief executive approval).

omit, insert—

‘Division 4B Minor and unregulated work

‘87 Minor work

- ‘(1) This section applies for minor work, prescribed under the Standard Plumbing and Drainage Regulation as notifiable minor work, that has been completed.
- ‘(2) The following person must, in the way and at the time required under this section, give the local government notice of the work—
 - (a) if it was carried out by or for an entity (a **relevant entity**) that is a public sector entity or an entity mentioned in section 89(2)—the relevant entity;
 - (b) otherwise—the person who carried out the work.

Maximum penalty—10 penalty units.
- ‘(3) For a relevant entity, the notice must be written.
- ‘(4) For another person, the notice must be in the approved form.
- ‘(5) The notice must be given within the following period after the completion—
 - (a) if the minor work is temporarily installed downstream of a backflow prevention device and the work remains in place for less than 4 weeks—20 business days;
 - (b) for other minor work—
 - (i) for a relevant entity—1 year; or
 - (ii) for another person—40 business days.
- ‘(6) The local government may, but need not, assess the work.’.

28 Replacement of pt 5 (On-site sewerage facilities)

Part 5—

omit, insert—

‘Part 5 Chief executive approvals

‘Division 1 Applying for and obtaining approval

‘91 Applying for chief executive approval

‘A person may, in the approved form, apply to the chief executive for an approval (a *chief executive approval*) for—

- (a) an on-site sewage treatment plant or greywater treatment plant if all of the plant is built on the premises where it is, or is to be, used; or
- (b) an element of an on-site sewage treatment plant or greywater treatment plant, if all of the element is built on the premises where the plant is, or is to be, used; or
- (c) a wholly prefabricated on-site sewage treatment plant or greywater treatment plant; or
- (d) a prefabricated element of an on-site sewage treatment plant or greywater treatment plant; or
- (e) an on-site sewage treatment plant or greywater treatment plant or element of an on-site sewage treatment plant or greywater treatment plant mentioned in paragraphs (a) to (d) if the plant is proposed to be installed only for testing purposes.

‘92 Information request

- ‘(1) The chief executive may give the applicant a written notice (an *information request*) requesting further information from the applicant needed to decide the application.
- ‘(2) An information request must be made within 20 business days after the application is received.
- ‘(3) However, if information is given under an information request made within the 20 business days, another information request may be made within 20 business days after the information is received.

- ‘(4) If an information request is made and the chief executive does not receive the information requested within the following period, the application lapses—
- (a) generally—1 year after the request was made;
 - (b) if, within the year, the chief executive agrees to a longer period—the longer period.

‘93 Deciding application

- ‘(1) The chief executive must decide the application within the later of the following periods to end—
- (a) 40 business days after the chief executive received the application;
 - (b) 40 business days after the information required under the last information request made under section 92 is received;
 - (c) a further 40 business days stated in a written notice by the chief executive given within the latest of the periods under paragraph (a) or (b) to end;
 - (d) a longer period agreed between the applicant and the chief executive.
- ‘(2) However, the application may be granted only if the chief executive is reasonably satisfied the item the subject of the application complies with the Standard Plumbing and Drainage Regulation.
- ‘(3) Also, if the item the subject of the application is a greywater use facility or on-site sewerage facility, the chief executive may refuse the application but decide to give a testing approval for the item.

‘94 Conditions of approval

- ‘(1) The chief executive may impose conditions on the approval, including, for example, conditions about the way the item the subject of the approval must be built or manufactured, installed, operated and serviced.

Example—

A chief executive approval for a particular model of on-site sewage treatment plant may require that the plant may be supplied only if it is supplied with each of the following—

- evidence of the approval
- details of the model of the plant
- instructions for its building or manufacture, installation, operation, and maintenance.

- ‘(2) If the item the subject of the approval is an on-site sewerage facility, the conditions may authorise the dismantling or taking away of all or part of the installed facility.¹⁷

‘95 Information notice

‘If the chief executive decides to refuse the application or issue an approval with conditions, the chief executive must, as soon as practicable, give the applicant an information notice about the decision.¹⁸

‘Division 2 Miscellaneous provisions

‘96 Term of chief executive approval

‘Subject to section 97, a chief executive approval lasts for—

- (a) the period stated in it; or
- (b) if no period is stated—
 - (i) for a testing approval—1 year or a longer period the chief executive agrees to in writing before the year ends; or
 - (ii) otherwise—5 years.

¹⁷ See section 128 (Restriction on dismantling or taking away on-site sewerage facility).

¹⁸ For appeals against the decision, see the *Integrated Planning Act 1997*, chapter 4 (Appeals, offences and enforcement), part 2 (Building and development tribunals), divisions 4 to 6.

‘97 Renewals

- ‘(1) The holder of a chief executive approval may, before the term of the approval ends, apply to the chief executive to renew the approval.
- ‘(2) Sections 91 to 96 apply for the renewal application as if—
 - (a) it were an application for a chief executive approval; and
 - (b) the reference in section 96 to a chief executive approval were a reference to the renewed authority.

‘98 Publication of chief executive approvals

‘Within a reasonable period after granting a chief executive approval, the chief executive must—

- (a) by gazette notice—
 - (i) notify the giving of the approval; and
 - (ii) advise where a copy of the approval may be examined or obtained; and
- (b) ensure the copy may be examined free of charge, and obtained at a reasonable cost, at a place stated in the notice.’.

29 Replacement of pt 6, hdg (Investigation, enforcement and offences)

Part 6, heading—

omit insert—

‘Part 6 Investigation and enforcement by local governments’.

30 Amendment of s 114 (Functions and powers of inspectors and relationship to the Local Government Act 1993)

Section 114(2), after ‘plumbing or drainage’—

insert—

‘or an on-site sewerage facility’.

31 Amendment of s 115 (Show cause notices)

Section 115(1), ‘section 116(1)(b) or (c)’—

omit, insert—

‘section 116(1)(a)(ii) to (iv)’.

32 Replacement of s 116 (Enforcement notices for plumbing and drainage)

Section 116—

omit, insert—

‘116 Enforcement notices

‘(1) A local government may give written notice to the owner of premises requiring the owner to do a stated thing if the local government reasonably believes—

- (a) plumbing or drainage or an on-site sewerage facility on the premises—
 - (i) is in a condition, or functions in a way, that constitutes a danger or health risk to occupiers of the premises or the public; or
 - (ii) is defective and should be altered, repaired or replaced; or
 - (iii) is not adequate to deal with the sewage generated on the premises or is in a condition that unreasonably interferes, or is likely to unreasonably interfere, with the use or enjoyment of any other premises; or
 - (iv) was installed without, or not in accordance with, the local government’s approval; or
- (b) the premises is not in a sewered area and the absence of an on-site sewerage facility on the premises constitutes a danger or health risk to occupiers of the premises or the public; or

-
- (c) the owner has contravened, or is contravening, section 128K, 128L or 128M.¹⁹
 - ‘(2) A local government may give written notice to a person who has performed plumbing or drainage work or on-site sewerage work requiring the person to do a stated thing if the local government reasonably believes the work does not comply with this Act.
 - ‘(3) Without limiting what may be required under subsection (1) or (2), a notice under subsection (1) or (2) may require the owner or person to do any of the following—
 - (a) request a compliance assessment;
 - (b) do, or not do, a stated thing to ensure plumbing or drainage work or on-site sewerage work complies with this Act or a relevant compliance permit or certificate;
 - (c) alter, repair, replace or remove plumbing or drainage work or on-site sewerage work.’.

33 Amendment of s 118 (Relationship with Integrated Planning Act 1997)

Section 118(2), ‘section 116(1)(a)’—

omit, insert—

‘section 116(1)(a)(i) or (b) or (c)’.

34 Replacement of pt 6, divs 3–5

Part 6, divisions 3 to 5—

omit, insert—

¹⁹ Section 128K (Offence about discharging blackwater), 128L (Offence about discharging kitchen greywater from premises) or 128M (Offences about discharging greywater other than kitchen greywater from premises)

‘Part 6A General offences

‘Division 1 Offences about licences

‘119 Offences by persons not holding appropriate licence

‘A person must not perform, direct the performance of, or supervise, work for which a licence is required unless the person holds a licence that entitles the person to perform the work.

Maximum penalty—165 penalty units.

‘120 Offence of directing or supervising unlicensed work

‘A licensed person for work must not direct someone else to perform the work, or supervise someone else in the performance of the work, if—

- (a) under this Act, a licence is required to perform the work; and
- (b) the other person is not a licensed person for the work.

Maximum penalty—165 penalty units.

‘121 Exemptions for ss 119 and 120

‘(1) A person does not commit an offence against section 119 or 120 if the work mentioned in the section is—

- (a) only the excavation or back filling of trenches, or other work of an unskilled nature; or
- (b) performed by a designated person, under the direct supervision of a licensed person for the work; or
- (c) drainage work performed under the direct supervision of a person holding a drainers licence; or
- (d) the installation of all or part of a greywater application area for a greywater use facility.

‘(2) In this section—

designated person means a person who—

- (a) is an apprentice, trainee or student enrolled in a course that—
 - (i) under the *Vocational, Education, Training and Employment Act 2000*, is conducted by a registered training organisation and leads to the issue of a qualification or statement of attainment; and
 - (ii) relates to plumbing, drainage or on-site sewerage work; and
- (b) has agreed with a TAFE institute under that Act and an employer to take part in a vocational placement scheme under that Act.

‘122 Contravening licence conditions

‘The holder of a licence must not contravene a condition of the licence.

Maximum penalty—100 penalty units.

‘123 Limitations on provisional licence holders

- ‘(1) The holder of a provisional licence must not enter into a contract, other than a contract of employment, for performing work the holder is entitled to perform under the licence.

Maximum penalty—100 penalty units.

- ‘(2) The holder of a provisional licence must not perform work the holder is entitled to perform under the licence unless the work is performed under the supervision of a licensee entitled to do the work being performed.

Maximum penalty—100 penalty units.

‘124 Restriction on advertising for the carrying out of particular work

‘A person must not advertise that the person is available to carry out plumbing or drainage work, other than unregulated

work, unless the person is the holder of a licence under this Act that entitles the person to carry out the work.

Maximum penalty—100 penalty units.

‘Division 2 Building and installation and related offences

‘125 Restriction on building or installing particular on-site sewerage treatment plant

‘A person must not build or install an on-site sewerage treatment plant (other than an on-site sewerage treatment plant that consists only of a septic tank) unless—

- (a) a chief executive approval has been given for the plant; and
- (b) the building or installation complies with all conditions of the chief executive approval.²⁰

Maximum penalty—165 penalty units.

‘126 Restriction on building or installing greywater use facility

‘A person must not build or install a greywater use facility unless—

- (a) a chief executive approval has been given for any greywater treatment plant for the facility; and
- (b) the building or installation complies with all conditions of—
 - (i) the chief executive approval; and
 - (ii) any plumbing code authorisation and certification for any greywater diversion device for the facility.

Maximum penalty—165 penalty units.

²⁰ For septic tanks, see also section 85D(2)(c) (Restrictions on giving compliance permit for particular on-site sewerage work).

‘127 Restriction on building or installing chemical, composting or incinerating toilet

‘A person must not build or install a chemical, composting or incinerating toilet unless the building or installation complies with the EPA design rules.

Maximum penalty—100 penalty units.

‘128 Restriction on dismantling or taking away on-site sewerage facility

‘A person must not dismantle or take away all or part of an on-site sewerage facility installed on premises unless the dismantling or taking away is authorised in writing by the local government or under a chief executive approval.

Maximum penalty—100 penalty units.

‘128A Offence to pollute service provider’s services

- ‘(1) In carrying out plumbing work, a person must not do anything likely to pollute water in a water service provider’s water service as defined under the *Water Act 2000*.

Maximum penalty—165 penalty units.

- ‘(2) In carrying out drainage work, a person must not do anything likely to pollute a sewerage service provider’s sewerage service.

Maximum penalty—165 penalty units.

‘Division 3 Operating restrictions

‘128B Owner’s obligation to ensure compliance with conditions of compliance certificate

‘The owner of premises for which a compliance certificate has been given for regulated work for a greywater use facility, or for on-site sewerage work for an on-site sewerage facility,

must ensure all conditions of the certificate are complied with.²¹

Maximum penalty—165 penalty units.

‘128C Restriction on operating chemical, composting or incinerating toilet

‘A person must not operate a chemical, composting or incinerating toilet unless the operation complies with the EPA design rules.²²

Maximum penalty—100 penalty units.

‘128D Restriction on operating particular on-site sewerage facilities

‘A person must not operate an on-site sewerage facility (other than a chemical, composting or incinerating toilet) in a way that does not comply with the Standard Plumbing and Drainage Regulation.²³

Maximum penalty—100 penalty units.

‘128E Restrictions on operating particular on-site sewerage treatment plant

‘A person must not operate an on-site sewage treatment plant (other than an on-site sewage treatment plant consisting only of a septic tank) unless—

21 For access to the conditions, see section 143 (Local government’s obligation to keep particular records).

See also section 128F (Restrictions on operating greywater use facility).

22 See however section 170 (Exemption from particular offences for particular on-site sewerage facilities built or installed before 30 April 1998).

23 See however section 170 (Exemption from particular offences for particular on-site sewerage facilities built or installed before 30 April 1998).

- (a) a compliance certificate has been given for the on-site sewerage work for the on-site sewerage facility of which the plant is a part;²⁴ and
- (b) the operation complies with all conditions of—
 - (i) the compliance certificate; and
 - (ii) the chief executive approval for the plant.²⁵

Maximum penalty—100 penalty units.

‘128F Restrictions on operating greywater use facility

‘A person must not operate a greywater use facility unless—

- (a) a compliance certificate has been given for the regulated work for the facility;²⁶ and
- (b) the operation complies with all conditions of—
 - (i) the compliance certificate; and
 - (ii) the chief executive approval for the facility’s greywater treatment plant; and
 - (iii) any plumbing code authorisation and certification for the facility’s greywater diversion device.

Maximum penalty—100 penalty units.

‘128G Owner’s obligation to maintain plumbing and drainage and on-site sewerage facility

- ‘(1) The owner of premises must take all reasonable steps to ensure all plumbing and drainage and any on-site sewerage facility on the premises is kept in good condition and operates properly.

Maximum penalty—165 penalty units.

24 For access to the conditions, see section 143 (Local government’s obligation to keep particular records).

25 See however section 170 (Exemption from particular offences for particular on-site sewerage facilities built or installed before 30 April 1998).

26 For access to the conditions, see section 143 (Local government’s obligation to keep particular records).

- ‘(2) If the plumbing and drainage is a greywater use facility, evidence that the facility has not been maintained in accordance with the manufacturer’s instructions for that type of facility is evidence that the facility has not been kept in good condition or has not been operated properly.

‘128H Obligations of person who services on-site sewerage facility

- ‘(1) If a person services an on-site sewerage facility, the person must—
- (a) give the local government a written report on the condition of the facility within 1 month after servicing it; and
 - (b) give a copy of the report to the owner of the facility as soon as practicable after servicing it.

Maximum penalty—40 penalty units.

- ‘(2) The person must not in the report make a statement to the local government or the owner about the facility that the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

‘Division 4 Prohibitions on removing or tampering with particular devices

‘128I Backflow prevention devices

‘A person must not do any of the following unless authorised under this or another Act—

- (a) remove a backflow prevention device installed on premises;
- (b) do anything to a backflow prevention device installed on premises that renders it inoperable.

Maximum penalty—165 penalty units.

‘128J Hot water control devices

‘(1) A person must not do any of the following unless authorised under this or another Act—

- (a) remove a hot water control device installed on premises;
- (b) do anything to a hot water control device installed on premises that renders it inoperable.

Maximum penalty—165 penalty units.

‘(2) In this section—

hot water control device means—

- (a) a mixing valve in which the temperature from the mixed water outlet is automatically controlled by a thermostatic element or sensor to a preselected temperature; or
- (b) a mixing valve that is temperature actuated and is used to temper a hot water supply with cold water to provide hot water at a lower temperature at 1 or more outlet fixtures; or
- (c) any other device installed to deliver hot water at a lower temperature at 1 or more outlet fixtures.

‘Division 5 Discharge and disposal offences

‘128K Offence about discharging blackwater

‘(1) The owner of premises must ensure all blackwater from plumbing and drainage on the premises is discharged into—

- (a) if the premises is in a sewered area—the infrastructure of the sewerage service provider for area’s sewerage service; or
- (b) if the premises is not in a sewered area—
 - (i) an on-site sewerage facility;²⁷ or

²⁷ See also section 125 (Restriction on building or installing particular on-site sewerage treatment plant).

- (ii) a dry-vault toilet; or
- (iii) an environmentally relevant on-site sewerage facility.²⁸

Maximum penalty—500 penalty units.

‘(2) In this section—

blackwater means—

- (a) waste discharged from a human body into a toilet; and
- (b) water used for the discharge.

‘128L Offence about discharging kitchen greywater from premises

‘The owner of premises must ensure kitchen greywater from plumbing and drainage on the premises is discharged into—

- (a) if the premises is in a sewered area—the infrastructure of the sewerage service provider for area’s sewerage service; or
- (b) if the premises is not in a sewered area—
 - (i) an on-site sewerage facility;²⁹ or
 - (ii) an environmentally relevant on-site sewerage facility;³⁰ or
 - (iii) a greywater use facility that includes a greywater treatment plant.³¹

Maximum penalty—500 penalty units.

28 See also the *Environmental Protection (Waste Management) Regulation 2000*, section 67 (Prohibition on use of non-complying waste equipment).

29 See also section 125 (Restriction on building or installing particular on-site sewerage treatment plant).

30 See also the *Environmental Protection (Waste Management) Regulation 2000*, section 67 (Prohibition on use of non-complying waste equipment).

31 See also sections 82 (Plans and all plumbing and drainage work must comply), 119 (Offences by persons not holding appropriate licence), 128B (Owner’s obligation to ensure compliance with conditions of compliance certificate) and section 128F (Restrictions on operating greywater use facility).

‘128M Offences about discharging greywater other than kitchen greywater from premises

‘(1) This section applies to the owner of premises for the discharge of greywater, other than kitchen greywater, from plumbing and drainage on the premises.

‘(2) If the premises is in a sewered area, the owner must ensure the greywater is—

(a) discharged into—

(i) the infrastructure of the sewerage service provider for area’s sewerage service; or

(ii) a greywater use facility;³² or

(b) carried by bucket to a garden or lawn.

Maximum penalty—500 penalty units.

‘(3) If the premises is not in a sewered area, the owner must ensure the greywater is—

(a) discharged into—

(i) an on-site sewerage facility;³³ or

(ii) an environmentally relevant on-site sewerage facility;³⁴ or

(iii) a greywater use facility;³⁵ or

(b) carried by bucket to a garden or lawn.

Maximum penalty—500 penalty units.

32 See also sections 82 (Plans and all plumbing and drainage work must comply), 119 (Offences by persons not holding appropriate licence), 128B (Owner’s obligation to ensure compliance with conditions of compliance certificate) and section 128F (Restrictions on operating greywater use facility).

33 See also division 2 (Building and installation and related offences).

34 See also the *Environmental Protection (Waste Management) Regulation 2000*, section 67 (Prohibition on use of non-complying waste equipment).

35 See also sections 82 (Plans and all plumbing and drainage work must comply), 119 (Offences by persons not holding appropriate licence), 128B (Owner’s obligation to ensure compliance with conditions of compliance certificate) and section 128F (Restrictions on operating greywater use facility).

‘(4) The owner must also ensure—

- (a) the greywater does not cause an odour that unreasonably interferes, or is likely to unreasonably interfere, with the use or enjoyment of any other premises; or
- (b) any ponding or run-off of the greywater does not cause a danger or health risk to any one.

Maximum penalty—100 penalty units.

‘(5) To remove any doubt, it is declared that subsection (4) applies regardless of the way in which the greywater is discharged.

‘128N Permissible and prohibited discharges

‘(1) A person must not discharge waste, other than sewage the facility is designed to receive, into an on-site sewerage facility.

Maximum penalty—165 penalty units.

‘(2) A person must not discharge a prohibited substance into an on-site sewerage facility.

Maximum penalty—165 penalty units.

‘128O Stormwater drainage must be separate from on-site sewerage facility

‘(1) The owner of premises must not allow a part of a stormwater installation for the premises to be connected to an on-site sewerage facility.

Maximum penalty—165 penalty units.

‘(2) If an owner of premises becomes aware that a part of a stormwater installation for the premises is connected to any on-site sewerage facility, the owner must, as soon as reasonably practicable, take all necessary steps for disconnecting the stormwater installation for the premises from the on-site sewerage facility.

Maximum penalty—165 penalty units.

‘128P Disposal of contents of on-site sewerage facility

- ‘(1) A person must not dispose of the contents (other than effluent) of an on-site sewerage facility other than in a place, and a way, approved by the local government.

Maximum penalty—100 penalty units.

- ‘(2) A person must not dispose of effluent from an on-site sewerage facility other than to common effluent drainage or in another place, and a way, approved by the local government.

Maximum penalty—100 penalty units.

- ‘(3) Subsections (1) and (2) do not apply to contents or effluent removed for testing.

‘Division 6 Other offences**‘128Q Misleading statement by builder, manufacturer or supplier**

- ‘(1) A builder, manufacturer or supplier of an item must not make a statement to another person that is to the effect that the item has, or that might reasonably suggest that the item has, a chief executive approval, unless a chief executive approval has been granted for the item and the approval is still in force.

Maximum penalty—100 penalty units.

- ‘(2) A builder, manufacturer or supplier of an item must not make a statement to another person that is to the effect that, or that might reasonably suggest that, the manufacture, installation, operation, service or maintenance of the item complies with the conditions of a chief executive approval, unless a chief executive approval has been granted for the item and the approval is still in force.

Maximum penalty—100 penalty units.

- ‘(3) In this section—

supplier of an item, if the item is an on-site sewage treatment plant, includes a distributor or seller of on-site sewage treatment plants.

‘128R On-site sewerage facility no longer required

‘If an on-site sewerage facility is no longer required for premises, other than because the premises have been connected to a sewerage service provider’s sewerage system, the owner of the premises must, as soon as reasonably practicable, give the local government written notice it is no longer required.

Maximum penalty—40 penalty units.

‘128S False or misleading documents

‘A person must not give an investigator or inspector a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—40 penalty units.

‘128T Obstruction of investigators or inspectors

- ‘(1) A person must not, without reasonable excuse, obstruct an investigator or inspector exercising a power under this Act.

Maximum penalty—40 penalty units.

- ‘(2) In this section—

obstruct includes hinder, resist and attempt to obstruct.

‘128U Impersonation of investigator or inspector

‘A person must not pretend to be an investigator or inspector.

Maximum penalty—40 penalty units.’.

35 Replacement of pt 7, hdg (Reviews)

Part 7, heading—

omit, insert—

**‘Part 7 Reviews about plumbing and
drainage licences’.**

36 Omission of pt 7, div 1, hdg (Reviews about plumbing and drainage licences)

Part 7, division 1, heading—

omit.

37 Omission of pt 7, div 2 (Reviews about on-site sewerage facilities)

Part 7, division 2—

omit.

38 Insertion of new s 139A

After section 139—

insert—

‘139A Allegations of false or misleading matters

‘(1) This section applies to a proceeding for an offence against this Act described as involving a false or misleading document, information or statement.

‘(2) It is enough for a complaint starting the proceeding to state the document, information or statement made was ‘false or misleading’ to the defendant’s knowledge without specifying which.’.

39 Omission of s 142 (Maintenance of existing combined sanitary drains)

Section 142—

omit.

40 Replacement of s 143 (Local government’s obligation to keep particular records)

Section 143—

omit, insert—

‘143 Local government’s obligation to keep particular records

- ‘(1) A local government must keep a copy of each of the following documents (each a *compliance document*) until the designated period for the document ends—
- (a) each compliance permit it gives, and the plan and any other document relating to the permit;
 - (b) each compliance certificate it gives, and the plan of assessed work relating to the certificate.
- ‘(2) The local government must, until the designated period for a compliance document ends—
- (a) keep it open to inspection, as defined under the *Local Government Act 1993*, section 7; and
 - (b) make a copy available for purchase at its public office at a price not more than the cost to the local government of producing the copy and, if a copy is supplied to a purchaser by post, the cost of postage.
- ‘(3) A person employed by the local government who has charge of compliance documents must not obstruct or hinder the inspection or copying of a document under subsection (2).

Maximum penalty—10 penalty units.

- ‘(4) In this section—

designated period, for a compliance document, means—

- (a) if the document relates to a class 2 to 9 building under the Building Code of Australia, until the building is demolished or removed; or
- (b) if the document relates to a class 1 or 10 building under the Building Code of Australia, the earlier of the following to happen—
 - (i) the building’s demolition or removal;
 - (ii) if the document is, or relates to, a compliance permit—10 years from when the permit was given;

- (iii) if the document is, or relates to, a compliance certificate—10 years from when the certificate was given.

‘143A Local government register of installed on-site sewerage and greywater use facilities

‘A local government must keep a register of details of on site sewerage and greywater use facilities installed in its area for which it has given compliance certificates.³⁶

‘143B Local government’s monitoring obligations for greywater use facilities in sewered areas

‘Each local government must monitor greywater use facilities in sewered areas within its area to ensure—

- (a) their operation complies with relevant compliance certificate conditions; and
- (b) they are not adversely affecting public health, amenity or the environment.’.

41 Amendment of s 144 (Chief executive may publish information)

- (1) Section 144(a), after ‘drainage’—

insert—

‘and on-site sewerage work’.

- (2) Section 144(a), example, after ‘section 83’—

insert—

‘or 85B³⁷’.

³⁶ See however section 171 (On-site sewerage and greywater use facilities to which s 143A applies).

³⁷ Section 83 (Compliance permit required for certain regulated work or any on-site sewerage work) or 85B (Restrictions on giving compliance permit for greywater use facility in a sewered area)

42 Amendment of s 145 (Regulation-making power)

Section 145(2), from ‘plumbing’—

omit, insert—

‘any of the following work or inspecting the work—

(a) plumbing and drainage work;

(b) on-site sewerage work.’.

43 Renumbering of pt 10, divs 2 to 5, hdgs

Part 10, divisions 2 to 5, headings—

renumber as part 10, division 2, subdivisions 1 to 4 respectively.

44 Insertion of new pt 10, div 2, hdg

After section 147—

insert—

**‘Division 2 Transitional provisions for Act
No. 77 of 2002’.**

45 Insertion of new pt 10, div 3

After section 159—

insert—

**‘Division 3 Transitional provisions for
Plumbing and Drainage and Other
Legislation Amendment Act 2005**

‘160 Definitions for div 3

In this division—

commencement means the day this section commences.

old part 5 means part 5³⁸ as in force immediately before the commencement.

old part 7, division 2 means part 7, division 2³⁹ as in force immediately before the commencement.

old section 96 means section 96⁴⁰ as in force immediately before the commencement.

old section 96 approval means an approval under old section 96.

‘161 Existing applications for model or type specification approval

- ‘(1) This section applies to an application under old part 5, division 3⁴¹ for a model or type specification approval under that part that had not been decided immediately before the commencement.
- ‘(2) The application must be decided as if old part 5 were still in force.
- ‘(3) Old part 7, division 2, applies to the application as if that division were still in force.

‘162 Existing model or type specification approval

- ‘(1) This section applies to a model or type specification approval under old part 5 in force immediately before the commencement.
- ‘(2) The approval continues in force for the rest of the term for which it was given as if it were an approval of that type under part 5 as in force immediately after the commencement.

38 Old part 5 (On-site sewerage facilities)

39 Old part 7, division 2 (Reviews about on-site sewerage facilities)

40 Old section 96 (Approval for on-site sewerage facilities)

41 Old part 5, division 3 (Model and type specification approvals)

‘163 Existing on-site sewerage facility applications

- ‘(1) An application for an old section 96 approval that had not been decided immediately before the commencement must be decided as if old section 96 were still in force.
- ‘(2) Old part 7, division 2, applies to the application as if that division were still in force.

‘164 Old section 96 approvals continue

‘An old section 96 approval in force immediately before the commencement continues in force despite the repeal of old section 96.

‘165 Exclusion of s 81 for work performed under old section 96 approval

‘Section 81 does not apply for on-site sewerage work performed, or to be performed, under an old section 96 approval.

‘166 Application of ss 82, 83 and 128B for old section 96 approvals

- ‘(1) Sections 82, 83 and 128B⁴² apply to on-site sewerage work performed under an old section 96 approval granted under section 163 or continued under section 164.
- ‘(2) For applying sections 82(2) and 128B, the references in the provisions to a compliance permit or a compliance certificate are taken to be references to the old section 96 approval.

⁴² Sections 82 (Plans and all plumbing and drainage or on-site sewerage work must comply), 83 (Compliance permit required for certain regulated work or any on-site sewerage work) and 128B (Owner’s obligation to ensure compliance with conditions of compliance certificate)

‘167 On-site facility conditions

‘For applying section 128B, an on-site facility condition of an old section 96 approval is taken to be a condition imposed under section 86C.⁴³

‘168 Existing notices under old part 5

- ‘(1) This section applies if, immediately before the commencement—
 - (a) a notice had been given under division 4 of old part 5;⁴⁴ and
 - (b) the notice had not been complied with.
- ‘(2) The following provisions continue to apply for the notice and subject of the notice as if they had not been repealed—
 - (a) the section under which the notice was given;
 - (b) old part 7, division 2.
- ‘(3) To remove any doubt, it is declared that subsection (2) does not prevent the giving of an enforcement notice for the subject of the notice.

‘169 Appeal right for decisions under old part 5

- ‘(1) This section applies if, immediately before the commencement, a person had been given, or was entitled to be given, an information notice about an original decision under old part 5, division 4.
- ‘(2) The person may appeal against the decision to a building and development tribunal against the decision.
- ‘(3) The appeal must be started within 20 business days after the day the person is given notice of the decision.

⁴³ Section 86C (Conditions of compliance certificate)

⁴⁴ Old part 5, division 4 (Role of local governments)

‘170 Exemption from particular offences for particular on-site sewerage facilities built or installed before 30 April 1998

‘Sections 128C, 128D and 128E⁴⁵ do not apply to an on-site sewerage facility built or installed before 30 April 1998 unless—

- (a) a local government approval is given for a change to the facility; or
- (b) a notice is given under section 116⁴⁶ for the facility.

‘171 On-site sewerage and greywater use facilities to which s 143A applies

‘Section 143A⁴⁷ only applies for an on-site sewerage or greywater use facility installed after the commencement.’.

46 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *board*, *built item*, *drainage*, *model approval*, *on-site facility conditions*, *on-site sewerage code*, *on-site sewerage facility*, *original decision*, *prefabricated item*, *review decision*, *review notice* and *type specification approval*—

omit.

- (2) Schedule—

insert—

‘***board*** means the Plumbers and Drainers Board, established under section 5.

45 Sections 128C (Restriction on operating chemical, composting or incinerating toilet), 128D (Restriction on operating particular on-site sewerage facilities) and 128E (Restrictions on operating particular on-site sewerage treatment plant)

See also former section 101(12) (Codes and standards for building, installing or operating on-site sewerage facilities).

46 Section 116 (Enforcement notices)

47 Section 143A (Local government register of installed on-site sewerage and greywater use facilities)

Building Code of Australia means the means the edition, current at the relevant time, of the Building Code of Australia published by the body known as the Australian Building Codes Board and includes the edition as amended from time to time by amendments published by the body.

chief executive approval see section 91.

compliance request see section 85(1).

drainage means an apparatus, fitting or pipe, either above or below ground level, that carries—

- (a) sewage to a sewer or to or from an on-site sewerage facility; or

Example—

a pipe carrying treated effluent from an on-site sewage treatment plant off the premises on which the plant is installed to a system of common effluent drainage or a holding tank for collection

- (b) greywater from a greywater treatment plant or greywater diversion device to and within a greywater application area.

dry-vault toilet means a system of disposing of waste discharged from a human body, incorporating a chamber that—

- (a) receives and treats the waste; and
- (b) uses a biological degradation or dehydration process to treat the waste; and
- (c) does not use water other than water for cleaning or to assist the biological degradation process.

environmentally relevant on-site sewerage facility—

- 1 An ***environmentally relevant on-site sewerage facility*** is a facility described in paragraph 2 that consists of, or includes, a sewage treatment plant the operation of which is an environmentally relevant activity under the *Environmental Protection Act 1994*.
- 2 For paragraph 1, the facility is a facility installed on premises for treating, on the premises, sewage generated

on the premises, and disposing of the resulting effluent—

- (a) on part of the premises (commonly called a ‘land application area’); or
- (b) off the premises by common effluent drainage or by collection from a tank on the premises.

EPA design rules means the design rules under the *Environmental Protection (Waste Management) Regulation 2000*, section 67 and schedule 8.⁴⁸

greywater means domestic wastewater from a bath, basin, kitchen, laundry or shower, whether or not the wastewater is contaminated with human waste.

greywater application area means an area in which greywater is disposed of by subsurface irrigation.

greywater diversion device—

- 1 A ***greywater diversion device*** is a device that consists of—
 - (a) a diversion device with the characteristics mentioned in paragraph 2; and
 - (b) a filtering system that uses a coarse filter to remove solids from greywater.
- 2 For paragraph 1, the characteristics are that the device—
 - (a) directs and diverts greywater to sanitary drainage or a greywater application area; and
 - (b) automatically diverts greywater from the facility to sanitary drainage if the facility does not work properly or at all; and
 - (c) allows the manual diversion of greywater from the facility to sanitary drainage.

⁴⁸ *Environmental Protection (Waste Management) Regulation 2000*, section 67 (Prohibition on use of non-complying waste equipment) and schedule 8 (Design rules), part 2 (Chemical, composting and incinerating toilets)

greywater treatment plant means a treatment plant installed on premises for treating, on the premises, greywater generated on the premises.

greywater use facility means a facility that consists of a greywater diversion device or of a greywater treatment plant and a greywater application area.

investigator means a person appointed under section 33A as an investigator.

kitchen greywater means greywater from any of the following parts of a domestic dwelling—

- (a) a kitchen;
- (b) another part that regularly produces significant amounts of greywater contaminated with grease or oil.

licensed person, for work, means a person who holds a licence that entitles the person to perform the work.

local government, in relation to work performed or to be performed, a facility or premises, means the local government that, under section 89, administers the Standard Plumbing and Drainage Regulation for the area in which the work is performed, or to be performed, or the facility or premises is located.

on-site sewerage facility—

- 1 An ***on-site sewerage facility*** is a facility, other than an environmentally relevant on-site sewerage facility, installed on premises for—
 - (a) treating, on the premises, sewage generated on the premises, and disposing of the resulting effluent—
 - (i) on part of the premises (commonly called a ‘land application area’); or
 - (ii) off the premises by common effluent drainage or by collection from a tank on the premises; or
 - (b) storing on the premises sewage generated on the premises for its subsequent disposal off the premises by collection from the premises.

- 2 A chemical, composting or incinerating toilet is also an ***on-site sewerage facility***.
- 3 ***On-site sewerage facility*** does not include a dry-vault toilet that is not a chemical, composting or incinerating toilet.

on-site sewerage work means building, installing or changing an on-site sewerage facility, including, for example, building, installing or changing an on-site sewerage facility for testing purposes.

operate, plumbing or drainage or an on-site sewerage facility, includes maintain the plumbing or drainage or facility.

original decision see section 129(1).

plumbing code authorisation and certification means product authorisation and certification under the document in force from time to time called ‘Plumbing Code of Australia’, produced for all State governments by the National Plumbing Regulators Forum.⁴⁹

premises means—

- (a) a building or other structure; or
- (b) land (whether or not a building or other structure is situated on the land).

sanitary drainage means an apparatus, fitting or pipe for collecting and carrying discharges from sanitary plumbing, or from a fixture directly connected to a sanitary drain, to a sewerage system or on-site sewerage facility, including all the following apparatus, fittings and pipes—

- (a) disconnector gullies;
- (b) bends at the foot of stacks or below ground level;

⁴⁹ A copy of the most recent version of the code at any time may be inspected free of charge during office hours on business days at the department’s office at 41 George Street, Brisbane.

For product authorisation and certification, see the code, parts A2 (Acceptance of design and construction) and G1 (Certification and authorisation).

- (c) in relation to connection to an on-site sewerage facility—a pipe, other than a soil or waste pipe, used to carry sewage to or from the facility;
- (d) pipes, above ground level, installed using drainage principles.

sewage means household and commercial wastewater that contains, or may contain, faecal, urinary or other human waste.

sewerage service provider means a service provider under the *Water Act 2000* for a sewerage service.

sewered area means a service area for a sewerage service under the *Water Act 2000*.

testing approval means a chief executive approval under section 91(e).’.

- (3) Schedule, definition *information notice*, paragraph (b), ‘of a local government under section 85 or 86’—

omit, insert—

‘of the chief executive or a local government, under part 4 or 5’.

- (4) Schedule, definition *information notice*, paragraph (c)—
omit.

- (5) Schedule, definition *owner*, paragraph (a), ‘, section 3(1)’—
omit.

- (6) Schedule, definition *plumbing*, paragraph (a), after ‘fitting or pipe’—
insert—

‘for supplying water to premises from a service provider’s infrastructure or a water storage tank and’.

- (7) Schedule, definition *plumbing*—
insert—

‘(c) a greywater treatment plant or greywater diversion device.’.

Part 5 Amendment of Water Act 2000

47 Act amended in pt 5

This part amends the *Water Act 2000*.

48 Amendment of s 824 (Discharging certain materials)

(1) Section 824(5)—

omit.

(2) Section 824(6)—

renumber as section 824(5).