

Plumbing and Drainage and Other Legislation Amendment Bill 2005

Explanatory Notes

General Outline

Short Title

Plumbing and Drainage and Other Legislation Amendment Bill 2005

Policy Objectives of the Legislation

The Bill provides for:

- Amendments to the *Plumbing and Drainage Act 2002* (PDA) to:
 - (a) Integrate the approval, enforcement and offence provisions relating to on-site sewerage treatment facilities with those relating to plumbing and drainage;
 - (b) Provide for approval, enforcement and offence provisions relating to using greywater to water gardens in sewered areas for premises where the greywater generated on the premises is less than 3000 litres per day; and
 - (c) Make minor amendments to clarify matters and address minor errors and omissions in the PDA;
- Amendments to the *Water Act 2000* (WA) to remove prohibitions on greywater use;
- Amendments to the *Local Government Act 1993* (LGA) to provide that certain fees levied under the PDA are regulatory fees.

Reasons for the Bill

The primary reason for the Bill is to provide a legislative framework for the use of household greywater to water gardens in sewered areas. Previously, all greywater generated in sewered areas had to be discharged to the sewer. Drought conditions across Queensland have generated interest in options

for water conservation and re-use. The greywater provisions in the Bill provide a framework for the use of greywater in urban settings, with sensible constraints that manage any potential public health and environmental impacts.

The Bill is also required to better integrate legislative provisions for on-site sewerage work in Queensland. The Bill includes amendments to the *Plumbing and Drainage Act 2002* (PDA) to make the approval process for on-site sewerage work consistent with approval processes for other plumbing and drainage work. On-site sewerage work was treated differently when it was first incorporated into the PDA because it had been administered under different legislation. The amendments in the Bill will improve integration and ensure that the same accountability standards apply to all work.

A number of minor amendments were also required to clarify some minor licensing and licensing enforcement matters, issues relating to notification of plumbing and drainage work and Plumbers and Drainers Board matters. Some definitions have also been rationalised.

Amendments to the LGA were required to clarify that all local government fees imposed under the PDA can only cover the cost to the local government of providing the service.

Achieving the Objectives

The objectives of the Bill are achieved by:

- the amendment of a number of existing approval, enforcement and offence provisions to include provision for on-site sewerage facilities;
- the introduction of new provisions allowing local government to approve greywater use systems in sewered areas;
- the introduction of new provisions, including offence provisions, to place sensible constraints on the use of greywater and to manage potential impacts on public health and the environment;
- amending the PDA to address and clarify some issues including providing investigative and disciplinary powers for the Plumbers and Drainers Board to investigate complaints against plumbers, clarifying some definitions and addressing other minor legislative matters;
- amending the WA so that it is not illegal to use greywater to irrigate the garden in a sewered area; and

- amending the LGA so that it is clear that all fees charged under the PDA are regulatory fees and must only cover the cost to the local government of providing the service.

Administrative costs

There are some costs to government of implementing the Bill, namely:

- potential costs for investigation and disciplinary action taken on behalf of the Plumbers and Drainers Board;
- the cost of providing for appeals against local government decisions to Building and Development Tribunals on applications for compliance assessment of greywater use in sewered areas; and
- the cost of processing applications for chief executive approval of greywater treatment plants.

Fundamental Legislation Principles

There are no provisions in the proposed amendments that would infringe fundamental legislative principles.

Consultation

The following State agencies were consulted during the preparation of the Bill:

- Department of Natural Resources;
- Department of the Premier and Cabinet;
- Department of Health;
- Department of Employment and Training;
- Building Services Authority;
- Business Policy Unit Smart State Policy and Planning;
- Environment Protection Agency;
- Office of Parliamentary Counsel;
- Office of Rural Communities; and
- Queensland Treasury.

Other key stakeholder groups consulted include the following:

- Association of Hydraulic Consultants;
- Brisbane City Council;
- Gold Coast City Council;
- Housing Industry Association
- Institute of Engineers;
- Local Government Association of Qld;
- Master Plumbers Association of Qld;
- Pine Rivers Shire Council;
- Wastewater Practitioners; and
- Yeronga TAFE.

Notes on Provisions

Part 1 Preliminary

Short title

Clause 1 sets out the short title of the Act as the *Plumbing and Drainage and Other Legislation Amendment Act 2005*.

Commencement

Clause 2 provides that the Act will commence on 1 March 2006, except for new section 85A, new sections 33A to 33V and certain definitions contained in the schedule dictionary which relate to the operation of section 85A.

By commencing section 85A on assent, local governments will have time prior to the 1 March 2006 in which to decide whether or not they want to accept applications for the use of greywater in seweraged areas.

Part 2 Amendment of Integrated Planning Act 1997

Act amended in pt 2

Clause 3 provides that this part amends the *Integrated Planning Act 1997*.

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

Clause 4 amends section 4.2.12A(1) of the *Integrated Planning Act 1997* and provides a right of appeal to a Building and Development Tribunal for certain compliance assessment decisions and on-site sewerage approval decisions made under the *Plumbing and Drainage Act 2002*. It provides that a person who is given an information notice about a decision made under part 4 or 5 of the *Plumbing and Drainage Act 2002* may appeal against that decision to a tribunal. The *Integrated Planning Act 1997* stipulates that this will be the Building and Development Tribunal. Information notices given in relation to compliance assessment of plans and work for regulated work and on-site sewerage work under Part 4 and chief executive approvals under part 5 will be appealable to a tribunal.

Part 3 Amendment of Local Government Act 1993

Act amended in pt 3

Clause 5 provides that this part amends the *Local Government Act 1993*.

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

Clause 6 amends section 1071A(1)(e) and clarifies that all fees charged by a local government under the *Plumbing and Drainage Act 2002* are classified as regulatory fees which may only cover the cost to the local government of providing the service, the subject of the fee.

Amendment of schedule (Dictionary)

Clause 7 amends the schedule definitions of the *Local Government Act 1993* so that these align with related definitions in the *Plumbing and Drainage Act 2002*. This clause inserts new definitions in the *Local Government Act 1993* for “on-site sewerage treatment plant” and “on-site sewerage facility” that refer directly to the schedule definitions in the *Plumbing and Drainage Act 2002*.

Part 4 Amendment of Plumbing and Drainage Act 2002

Act amended in pt 4

Clause 8 provides that this part amends the *Plumbing and Drainage Act 2002*.

Amendment of s 29 (Secretary and other officers)

Clause 9 amends the heading of s29 to better reflect the range of appointments anticipated by the section. The Clause provides for the employment or engagement of other appropriately qualified people to assist the Plumbers and Drainers Board perform its functions. However it does not apply to the appointment of an investigator. (Refer to Part 2 Division 8 Board investigators and their powers).

Insertion of new s 29A

Clause 10 provides for the insertion of new section 29A.

29A Delegation by secretary

New section 29A provides for delegation of powers by the secretary. Section 29A allows any person appointed as secretary to the Board, to delegate the powers of the secretary to other public service officers or employees.

Insertion of new pt 2, div 8 (Board investigators and their powers)

Clause 11 inserts a new pt 2, div 8 that provides for the appointment of Plumbers and Drainers Board investigators and gives these investigators the powers that are needed to carry out their duties.

New section 33A Appointment

New section 33A provides for the chief executive to appoint a public service officer or employee as an investigator if the chief executive considers that the person has experience and expertise qualifying them for the appointment.

New section 33B Function

New section 33B describes the function of an investigator, which is to investigate compliance issues in relation to the licensing provisions of the *Plumbing and Drainage Act 2002*. This investigative work is performed for the Plumbers and Drainers Board.

New section 33C Appointment conditions and limit on powers

New section 33C provides for two mechanisms, which can constrain the operations of investigators under the *Plumbing and Drainage Act 2002*. It provides that conditions can be placed on investigators holding office and that these conditions can be stated in the investigator's instrument of appointment, a signed notice from the chief executive, or a regulation. The section also specifies that an investigator's powers may be limited under a regulation, a condition of appointment, or by written notice given by the chief executive to the investigator.

New section 33D Issue of identity card

New section 33D provides that the chief executive must give each investigator an identity card that identifies the person as an investigator under the Bill. The card will contain the signature and a recent photograph of the investigator. The section allows for a single identity card to be issued for this Bill and for other purposes such as identifying an investigator under another Act.

New section 33E Production or display of identity card

New section 33E provides that an investigator may exercise a power in relation to a person only if the investigator first produces his or her identity card or has the identity card clearly displayed. Provision is made for the investigator to produce the identity card at the first reasonable opportunity if it is not practicable to do so when exercising a power.

New section 33F When investigator ceases to hold office

New section 33F describes the circumstances under which an investigator may cease to hold office. This section describes certain circumstances in which an investigator ceases to hold office but does not limit the ways in which an investigator may cease to hold office.

New section 33G Resignation

New section 33G provides for resignation of investigators.

New section 33H Return of identity card

New section 33H provides for the return of identification cards by persons who cease to hold office as an investigator.

The maximum penalty for a contravention of this clause is 25 penalty units.

New section 33I Power to enter places

New section 33I outlines the conditions under which investigators have the power to enter places, for the exercise of their functions under the *Plumbing and Drainage Act 2002*.

New section 33J Entry with consent

New section 33J explains what action an investigator must take if asking for an occupier's consent to enter a place. The investigator must inform the occupier of the purpose for which entry is required. The investigator must also inform the occupier that they have the option to refuse consent.

The onus of proof is on the investigator to prove the occupier consented to the entry. This section also allows an investigator to ask the occupier to sign an acknowledgement of consent. In this instance, the investigator must give a copy to the occupier.

New section 33K Application for warrant

New section 33K provides that an investigator may apply in writing to a magistrate for a warrant for a place. This section specifies that the written application must be sworn and must state the grounds on which the warrant is sought. The magistrate may refuse to consider the application until the investigator gives the magistrate all the information that the magistrate requires.

New section 33L Issue of warrant

New section 33L describes the grounds on which a magistrate may grant a warrant to an investigator and the information that must be included in such a warrant. The section provides that a magistrate may only issue a warrant for the place if satisfied there are reasonable grounds for suspecting there is a particular thing or activity that may provide evidence of an offence against the Bill, and that the evidence is, or may be at the place within the next seven days.

New section 33M Application by electronic communication and duplicate warrant

New section 33M provides that an investigator may apply to a magistrate for a warrant by phone, fax, email, radio, videoconferencing or another form of electronic communication if the investigator considers it necessary on certain grounds. This section provides for an investigator to prepare a written application stating the grounds on which the warrant is sought. The application may be made before the written application is sworn.

This section also describes the conditions under which a magistrate may issue such a warrant. It requires that the magistrate is satisfied it was necessary to make the application electronically and that the application was appropriate.

This section also describes the procedures that must be following if a warrant is issued following an electronic application. After the original warrant is issued, the magistrate must immediately give a copy of the warrant (the *duplicate warrant*) to the investigator if it is reasonably practicable to do so. If not practicable to do so, the magistrate must inform the investigator of the date and time the warrant was issued and other terms of the warrant. A form of warrant must be completed by the investigator showing the magistrate's name, the date and time the warrant was issued

and other terms of the warrant. The duplicate warrant and form of warrant are as effectual as the original warrant in these circumstances.

The investigator must send the sworn application and the completed form of warrant, if one has been completed, to the magistrate at the first reasonable opportunity. The magistrate must attach the sworn application and the completed form of warrant, if one has been completed, to the original warrant and give the documents to the clerk of the court of the relevant magistrates court.

The onus of proof is on the investigator to prove that any powers of entry exercised under this section were authorised by a warrant. This section does not limit the requirements of section 33K.

New section 33N Defect in relation to a warrant

New section 33N provides that a warrant is not invalidated where there is a defect in the warrant or in compliance with sections 33K, 33L or 33M, except where the defect affects the substance of the warrant in a material particular.

New section 33O Warrants – procedure before entry

New section 33O outlines the procedures that an investigator named in a warrant must follow or make a reasonable attempt to follow before entering a place under a warrant.

New section 33P General powers of investigator after entering places

New section 33P describes what an investigator can do following authorised entry to a place. This section authorises certain actions where these are necessary for performing the function of the investigator under the *Plumbing and Drainage Act 2002*. Powers which may be justifiable in the context of an investigation include searching any part of the place and inspecting, measuring, testing, photographing or filming any part of the place or anything in the place. Investigators may also take into or onto the place any person, equipment and materials the investigator reasonably requires for exercising a power under this section.

New section 33Q Power to require reasonable help or information

New section 33Q describes what the occupier of a place may be required to do to assist an investigator. An investigator may require the occupier of the place, or a person at the place, to give the investigator reasonable help or information in exercising his or her power under section 33P. The investigator when requiring reasonable help or information must warn the person it is an offence to fail to comply unless the person has a reasonable excuse. If the person is an individual, it is a reasonable excuse for the person not to provide reasonable help or information if doing so might incriminate the person.

New section 33R Power to require name and address

New section 33R outlines the circumstances in which an investigator may require a person to state the person's name and address. Unless the person has a reasonable excuse, it is an offence for a person to fail to comply with a request by an investigator.

The section provides that the investigator must warn the person it is an offence to fail to state his or her name and address, unless the person has a reasonable excuse for not doing so.

The section also provides that the investigator may require a person to give evidence of the correctness of the stated name and address, if in the circumstances, it would be reasonable to expect the person to be in possession of evidence or able to give the evidence as to the correctness of the stated name and address.

New section 33S Power to require production of documents

New section 33S provides for the circumstances in which an investigator may require a person to produce documents that they have received under the *Plumbing and Drainage Act 2002*. The investigator may ask the person to provide a copy of a document within a reasonable period. If the person does not comply with the request from the investigator, the investigator may take the document to copy it. The investigator must return the document to the person as soon as practicable after copying it.

New section 33T Failure to state name and address or produce document

New section 33T provides that a person must comply with a requirement under section 33R(2) or 33S(1), unless the person has a reasonable excuse for not doing so. It is a reasonable excuse where complying might tend to incriminate the individual.

The maximum penalty for a contravention of subclause (1) is 40 penalty units.

New section 33U Notice of damage

New section 33U provides for what is to happen if property is damaged by an investigator or by a person acting under an investigator's direction, when exercising or purporting to exercise a power. This section requires the investigator to, as soon as practicable, give written notice of the particulars of the damage to the person who appears to be the owner of the property. If it is impracticable to give such notice, the investigator must leave the notice, in a reasonably secure way where the damage happened.

This section does not apply to damage the investigator reasonably believes is trivial. For this section an "owner" of a property includes the person in possession or control of it.

New section 33V Compensation

New section 33V provides that a person may claim compensation from the State if the person incurs a loss or expense because of the exercise, or purported exercise of a power under this division. Amongst other things, compensation may be claimed for loss or damage which is incurred as a result of complying with any requirement under this division.

Compensation may be claimed and ordered to be paid in a proceeding brought in a relevant court and the court, in deciding whether or not compensation should be paid, must consider the particular circumstances of each individual case.

Amendment of s 40 (Decision on application for licence)

Clause 12 provides some additional detail about the circumstances under which the Plumbers and Drainers Board may issue a provisional licence. Existing provisions are amended to clarify that the board may provisionally licence an applicant for the class of licence applied for, if the board

reasonably considers that the person does not have the qualifications required but does have enough practical experience to be able to perform the work. For example, a person may have worked alongside a plumber for many years and has extensive experience but no formal qualifications. This experience is verified by references from employers and the applicant successfully completes a practical skills test to demonstrate that he is competent. Upon successful completion of the skills test, the applicant is issued with a provisional licence and required to undertake further training equivalent to a plumbing apprentice.

The board may also provisionally licence an applicant for the class of licence applied for, if the board reasonably considers the applicant holds a relevant corresponding licence. For example, applicants who hold a current licence from interstate, New Zealand or another country would be entitled, upon application, to the equivalent level of licence in Queensland.

Amendment of s 64 (Grounds for discipline)

Clause 13 provides additional grounds for which the board may decide to take disciplinary action against a licensee. Existing grounds for disciplinary action are expanded to include the grounds that a licensee:

- directs someone else to perform work, or supervises someone else in the performance of work (i.e., a breach of section 120), or
- has performed work that is not work for which the licensee's licence was issued, and it is work for which a licence is required.

Amendment of s 78 (Compliance permit)

Clause 14 provides for integration of the permit requirements for on-site sewerage work with permit requirements for plumbing work. The amended section 78 will provide that a compliance permit also authorises on-site sewerage work to be carried out. The clause also makes a grammatical correction to s 78.

Amendment of s 79 (Compliance certificate)

Clause 15 provides for integration of certificate requirements for on-site sewerage work with certificate requirements for plumbing work. The amended section 79 will provide that a compliance certificate also approves on-site sewerage work to the extent stated in the certificate and under the same conditions as apply for plumbing work.

The section also provides that, subject to sections 86D(3) and 86E to 86G, a compliance certificate for regulated work or on-site sewerage work remains in force until the premises to which the certificate relates is demolished or removed.

Amendment of s 80 (Purpose of compliance assessment)

Clause 16 integrates provisions for compliance assessment of on-site sewerage work with the same provisions for plumbing work. Under the amended section 80 the purpose of compliance assessment will be expanded to include the assessment of plans and work for on-site sewerage work.

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

Clause 17 provides for on-site sewerage work to be assessed for compliance with the *Standard Plumbing and Drainage Regulation*. The regulation calls up the Queensland Plumbing and Wastewater Code, which provides the technical standards for on-site sewerage facilities and greywater use.

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

Clause 18 provides that a person who carries out on-site sewerage work must ensure that the work complies with the *Standard Plumbing and Drainage Regulation*.

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

Clause 19 provides that a person must not carry out on-site sewerage work unless the person has a compliance permit for the work. The clause also provides that regulated work and on-site sewerage work must comply with any conditions of the permit.

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

Clause 20 provides that on-site sewerage work to be carried out by, or on behalf of a public sector entity, must be assessed for compliance with the *Standard Plumbing and Drainage Regulation*. The entity may carry out the

assessment of the plans or the work itself, or it may ask the relevant local government to carry out the assessment on its behalf.

Amendment of s 85 (Process for assessing plans)

Clause 21 extends the process for the compliance assessment of a plan for plumbing and drainage work to include on-site sewerage work. The amended section 85 will also provide that if an information request is made as part of the assessment process and the information requested is not received by the local government within 1 year of the request, the compliance request lapses. However the local government may within the year agree to a longer period.

Insertion of new ss 85A to 85E

Clause 22 provides for the insertion of new sections 85A to 85E.

New section 85A Local government's power to stop further greywater use facility requests for premises in a sewered area

New section 85A provides for local governments to decide whether or not they wish to facilitate the use of greywater within sewered areas under their jurisdiction. This section allows local governments to decide whether or not they will accept applications for greywater use facilities in sewered areas.

A local government may make a resolution deciding that no further compliance requests for regulated work that is for or that includes a greywater use facility may be made to it.

While the resolution is in effect no further greywater use facility requests can be made to the local government.

After the resolution takes effect the local government must give a copy of the resolution to the chief executive and ensure a copy is open for inspection under the *Local Government Act 1993*.

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

New section 85B details the conditions under which a local government can grant a compliance permit for a greywater use facility in a sewered area. A number of important conditions have been incorporated within this

section to safeguard public health and to minimise the potential environmental impacts of greywater use in sewered areas.

New section 85B provides that a compliance permit may be granted only for premises defined as class 1a buildings or premises that are used, or proposed to be used, for a use prescribed under the *Standard Plumbing and Drainage Regulation*.

A compliance permit cannot be granted for:

- premises generating more than 3000L greywater per day
- facilities that are part of a community titles scheme under the *Body Corporate and Community management Act 1997*
- premises that are in an area the local government has, by resolution or planning instrument, declared unsuitable for greywater use.

It is important that all treatment plants and devices within greywater facilities meet the appropriate standards. A compliance permit can only be granted if the greywater treatment plant has a chief executive approval or the greywater diversion device has plumbing code authorisation and certification.

It is also important that greywater use facilities are designed to effectively manage any overflow or faulty backflow of greywater. If there is any problem with the greywater use facility then greywater must be able to flow or be diverted to the normal sewerage outlet. A compliance permit can only be granted if:

- the greywater treatment plant or greywater diversion device has a connection to sanitary drainage; and
- greywater may be manually diverted to sanitary drainage; and
- an automatic overflow to sanitary drainage is maintained in case the filtering or irrigation system does not work or does not work properly.

The section also provides that a local government, when making a resolution or instrument or when deciding an application for a compliance permit, must consider the criteria prescribed under the *Standard Plumbing and Drainage Regulation*. Further information about the use of greywater in sewered areas is contained in Part 2.0 of the Queensland Plumbing and Wastewater Code.

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

Section 85C describes the circumstances under which a local government may give a compliance permit for a greywater use facility in an unsewered area. When assessing plans for a greywater use facility in an unsewered area, a local government must be satisfied there is enough water available to the premises, enough suitable land for treated greywater from the facility to be used on the land or some alternative arrangement made for the use of treated greywater. Either the greywater treatment plant must have a chief executive approval or the greywater diversion device must have plumbing code authorisation and certification.

Further information about the use and disposal of greywater in unsewered areas is contained in Part 3.0 of the Queensland Plumbing and Wastewater Code.

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

Section 85D provides that local governments may only issue a compliance permit for on-site sewerage work where the work is outside a sewered area or where the proposed on-site sewerage facility is part of common effluent drainage.

When assessing plans for an on-site sewerage facility, a local government must be satisfied there is enough water available to operate the facility and there is enough land for the disposal of the effluent or some other suitable arrangement has been made for the disposal of the effluent. The on-site sewerage facility must be appropriate for the premises; for example, the facility should have the capacity to treat the total wastewater generated on the premises. Any item of the on-site sewerage work, other than an item for testing purposes, that requires a chief executive approval must comply with the approval or if the item is a septic tank, the *Standard Plumbing and Drainage Regulation*.

Further information about on-site sewerage facilities is contained in Part 1.0 of the Queensland Plumbing and Wastewater Code.

New section 85E Special provisions for assessing plan for work for testing purposes

Section 85E describes arrangements for local governments to assess and decide plans for greywater use and on-site sewerage facilities proposed to

be installed for testing purposes. Additional time is provided for local governments to assess and decide these plans. These timelines acknowledge that the process of assessing plans for work for testing purposes by local governments may involve additional consideration before the compliance request can be decided.

The time allowed for a local government to make an information request is extended from 10 business days to 20 business days after the plan is received. The local government has also been given additional time within which to decide a compliance request. The time has been extended from 20 business days to 40 business days (the *usual period*) after receipt of the compliance request or 40 business days after receipt of the information requested. The local government may within the usual period of 40 business days, extend the time for making a decision by up to a further 40 business days.

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

Clause 23 amends the heading of part 4 division 4 to include on-site sewerage work in addition to plumbing and drainage work.

Amendment of s 86 (Process for assessing regulated work)

Clause 24 extends the general process for assessing regulated work to include on-site sewerage work. The amended section 86 describes the process for assessing regulated work and on-site sewerage work.

The amended section 86 requires that a request for compliance assessment of regulated work that includes a greywater use facility can only be made if a testing approval under Part 5 of the Bill (chief executive approvals) has been granted.

The section also provides that a local government may decide not to carry out the assessment of on-site sewerage work and may accept from an approved person a notice of compliance verifying that the work complies. However the local government still has the discretion to inspect the work if they wish.

The amended section also clarifies that an approved person for assessment of on-site sewerage work means the person who designed the facility to which the work relates and who in the local government's opinion is competent to give a notice of compliance and if 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.

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

Clause 25 integrates the requirements for assessing regulated work and on-site sewerage work in remote areas. The amended section 86A provides for on-site sewerage work in these areas to be treated in the same way as regulated work.

Insertion of new ss 86B to 86G

Clause 26 provides for the insertion of new sections 86B to 86G.

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

New section 86B provides for a local government to decide a request for compliance assessment for on-site sewerage work for testing purposes. Before making the request a chief executive approval for testing purposes must be granted under part 5 of the Bill. The local government must decide the request within 10 business days after assessing the completed work or after it receives a plan if requested by the local government.

New section 86C Conditions of compliance certificate

New section 86C provides that conditions cannot be imposed on a compliance certificate for regulated work except where the work is for a greywater use facility. However the only conditions that may be imposed on a compliance certificate for a greywater use facility must relate to the ongoing operation, maintenance or testing of the facility.

Conditions may also be imposed on a compliance certificate for on-site sewerage work but only conditions that relate to the ongoing operation, maintenance or testing of the relevant on-site sewerage facility.

Division 4A Compliance certificates

New section 86D Effect of later grant of chief executive approval

New section 86D describes what action may be taken by a local government where it has issued a compliance certificate for testing a greywater use facility or a on-site sewerage facility and the chief executive has subsequently granted an approval under Part 5 of the Bill for each item relating to the work. In these circumstances the compliance certificate continues in force unless the local government decides to replace the compliance 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.

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

New section 86E describes what action may be taken by a local government where it has issued a compliance certificate for testing a greywater use facility or a on-site sewerage facility and an application for chief executive approval under Part 5 of the Bill for an item for the work is subsequently refused or withdrawn. In these circumstances the compliance certificate ceases to have any effect and the local government may require by written notice all or a stated part of the relevant greywater use facility or on-site sewerage facility to be removed. The former holder of the compliance certificate must comply with the notice as soon as practicable after receiving it. Contravening this section carries a maximum penalty of 100 penalty units.

New section 86F Ending of particular compliance certificates for testing

New section 86F provides that a compliance certificate given for work for testing purposes ends if any chief executive approval for an item that relates to the work ends.

New section 86G Power to amend conditions of particular compliance certificates

New section 86G allows a local government to amend a condition of a compliance certificate for work for testing purposes if it is considered necessary or desirable as a result of a change in a chief executive approval under Part 5 of the Bill.

If the local government wishes to make an amendment to the compliance certificate, it must give written notice to the owner of the premises and provide the owner with an opportunity to make written submissions about the proposal. The local government must consider the owner's written submissions and if it decides to make a subsequent amendment to the compliance certificate it must give an information notice to the owner about the decision.

Replacement of s 87 (Minor work)

Clause 27 omits the existing section 87 and inserts a replacement section 87.

Division 4B Minor and unregulated work

87 Minor work

Section 87 was replaced but maintains the existing provisions. In addition, the replacement section clarifies that a public sector entity or other relevant entity must give a local government notice of notifiable minor work that has been completed.

A relevant entity must give notice to the local government in writing within 1 year after completion of the minor work. For another person, other than a relevant entity, the notice to the local government must be in the approved form and must be given within 40 business days after completion of the minor work.

If the minor work is temporarily installed downstream of a backflow prevention device and the work remains in place for less than 4 weeks, the relevant entity or another person must give notice to the local government within 20 business days after completion of the work.

Replacement of pt 5 (On-site sewerage facilities)

Clause 28 omits the existing Part 5 and inserts a replacement Part 5.

Part 5 Chief executive approvals

Division 1 Applying for and obtaining approval

91 Applying for chief executive approval

Section 91 replaces the existing requirement for model approval for prefabricated items and type specification approval for built items for an on-site sewerage facility or a greywater use facility. A person can apply for a chief executive approval for-

- a built item; or
- a prefabricated item; or
- a built item or prefabricated item for a greywater use facility or on-site sewerage facility proposed to be installed only for testing purposes.

92 Information request

Section 92 provides that the chief executive may request by written notice from the applicant (*information request*), further information about the application. The information request must be made within 20 business days after receipt of the application and the chief executive may make another information request within 20 business days after receipt of the information initially requested. Generally, if the chief executive officer does not receive the information requested within 1 year after the request is made, the application lapses. However, the chief executive may agree to a longer period within the year.

93 Deciding application

Section 93 replaces the existing requirements for deciding applications and prescribes the periods within which the chief executive must decide an application. When approving an application the chief executive must be reasonably satisfied that the item, the subject of the application, complies

with the Standard Plumbing and Drainage Regulation. The chief executive may refuse an application but grant a testing approval for the item.

94 Conditions of approval

Section 94 maintains the existing provisions by providing that the chief executive may impose conditions on the approval including conditions about the way the item must be built or manufactured, installed, operated and serviced.

95 Information notice

Section 95 maintains the existing provisions by requiring the chief executive officer to give the applicant an information notice when an application is refused or approved with conditions.

Division 2 Miscellaneous provisions

96 Term of chief executive approval

The new section 96 describes how the term of a chief executive approval is limited.

97 Renewals

Section 97 allows the holder of a chief executive approval to apply to the chief executive to renew the approval before it ends.

98 Publication of chief executive approvals

Section 98 provides that the chief executive must publish the giving of approvals in the Government Gazette and advise where a copy of the approval may be examined or obtained. The chief executive must ensure a copy of the approval may be examined free of charge and obtained at a particular place at a reasonable cost.

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

Clause 29 omits the existing Part 6 heading and inserts a replacement Part 6 heading.

Part 6 Investigation and enforcement by local governments

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

Clause 30 provides that an inspector may conduct investigations and inspections of premises to monitor and enforce compliance with the *Plumbing and Drainage Act*, as well as the *Integrated Planning Act 1997*(IPA) and the *Local Government Act 1993*, to the extent that IPA and the LGA relate to on-site sewerage facilities.

Amendment of s 115 (Show cause notices)

Clause 31 describes the circumstances under which a local government must give a show cause notice before proceeding to issue a person with an enforcement notice.

Amendment of s 116 (Enforcement notices for plumbing and drainage)

Clause 32 omits the existing section 116 and inserts a replacement section 116.

116 Enforcement notices

Section 116 extends the existing enforcement provisions to include the issue of an enforcement notice by a local government where it has formed a reasonable belief that an on-site sewerage facility is deficient or the absence of an on-site sewerage facility constitutes a danger or health risk to occupiers of the premises or the public.

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

Clause 33 provides that an appeal against an enforcement notice given under section 116(1)(a)(i) or (b) or (c) must be started within 5 business days after the notice is given, not the 20 business day period allowed for other enforcement notices.

Replacement of pt 6, divs 3 and 4

Clause 34 omits the existing Part 6 division 3 and 4 and inserts Part 6A.

Part 6A General offences

Division 1 Offences about licences

119 Offences by persons not holding appropriate licence

Section 119 maintains the existing provision that makes it is an offence for a person to perform work unless the person has a licence that entitles the person to do that particular aspect of work. This ensures that only licensed persons with the appropriate competencies are allowed to perform specific work within the scope of their licence, and provides for a maximum penalty of 165 penalty units for unlicensed persons performing work without the appropriate licence.

120 Offence of directing or supervising unlicensed work

Section 120 provides that 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 licence is required under this Act to perform the work and the other person is not a licensed person for the work. There is a maximum penalty of 165 penalty units for this offence.

121 Exemptions for ss 119 and 120

Section 121 maintains the existing circumstances under which certain work does not require a licence. It also includes a further provision that allows an unlicensed person to install all or part of a greywater application area for a greywater use facility. The section also clarifies that a designated person (i.e. an apprentice, trainee or student) does not require a licence if performing the work under the direct supervision of a licensed person for the work.

122 Contravening licence conditions

Section 122 maintains the existing provision that makes it is an offence for licensees to breach the conditions of their licences. A licensee may only

perform plumbing or drainage work where their licence entitles them to undertake that particular aspect of work. This ensures that only licensed persons with the appropriate competencies are allowed to perform specific work within the scope of their licence. There is a maximum penalty of 100 penalty units for this offence.

123 Limitations on provisional licence holders

Section 123 maintains the existing provisions that make it an offence for a holder of a provisional licence to work alone. Provisional licensees may only undertake work authorised by their licences, while they are supervised by a person with the appropriate licence. A person with a provisional plumbing licence could work for a licensed plumber, or work for a business that employs a licensed plumber to supervise the provisional licensee. There is a maximum penalty of 100 penalty units for this offence.

124 Restriction on advertising for the carrying out of particular work

Section 124 clarifies that it is an offence for a person to advertise that they are available to carry out plumbing and drainage work, other than unregulated work, without holding the appropriate licence. There is a maximum penalty of 100 penalty units for this offence.

Division 2 Building and installation and related offences

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

Section 125 maintains the existing provisions that make it an offence for a person to build or install an on-site sewerage treatment plant (other than a plant that consists only of a septic tank) unless the plant has a chief executive approval and the building or installation complies with all conditions of the chief executive approval. There is a maximum penalty of 165 penalty units for this offence.

126 Restriction on building or installing greywater use facility

Section 126 provides that it is an offence for a person to build or install a greywater use facility unless the facility's greywater treatment plant has a chief executive approval. The building or installation of the facility must comply with all conditions of the chief executive approval and any plumbing code authorisation and certification for the facility's greywater diversion device in accordance with the Plumbing Code of Australia. There is a maximum penalty of 165 penalty units for this offence.

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

Section 127 maintains the existing provision that makes it an offence for a person to build or install a chemical composting or incinerating toilet that does not comply with the design rules contained in Schedule 8 Part 2 of the *Environmental Protection (Waste Management) Regulation 2000*. There is a maximum penalty of 100 penalty units for this offence.

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

Section 128 extends the existing provision by making it an offence to dismantle or take away all or part of an on-site sewerage facility, unless authorised in writing by the local government or under a chief executive approval. There is a maximum penalty of 100 penalty units for this offence.

128A Offence to pollute service provider's services

Section 128A maintains the existing provision that makes it an offence for a person carrying out plumbing and drainage work to do anything that is likely to pollute a service provider's water or sewerage service. There is a maximum penalty of 165 penalty units for this offence.

Division 3 Operating restrictions

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

Section 128B makes it an offence for the owner of premises to not comply with the conditions of a compliance certificate given for a greywater use

facility or on-site sewerage work. There is a maximum penalty of 165 penalty units for this offence.

128C Restrictions on operating chemical, composting or incinerating toilet

Section 128C maintains the existing provision that makes it an offence for a person to operate a chemical composting or incinerating toilet that does not comply with the design rules contained in Schedule 8 Part 2 of the *Environmental Protection (Waste Management) Regulation 2000*. There is a maximum penalty of 100 penalty units for this offence.

128D Restriction on operating particular on-site sewerage facilities

Section 128D maintains the existing provision that makes it an offence for a person to operate an on-site sewerage facility (other than a chemical, composting or incinerating toilet) that does not comply with the Standard Plumbing and Drainage Regulation. There is a maximum penalty of 100 penalty units for this offence.

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

Section 128E maintains the existing provisions that makes it is an offence for a person to operate an on-site sewerage treatment plant (other than an on-site sewerage treatment plant consisting only of a septic tank) unless a compliance certificate has been given for the on-site sewerage work and the operation complies with all conditions of the compliance certificate and the chief executive approval for the treatment plant. There is a maximum penalty of 100 penalty units for this offence.

128F Restrictions on operating greywater use facility

Section 128F provides that it is an offence for a person to operate a greywater use facility unless a compliance certificate has been given for the regulated work for the facility and the operation complies with all conditions of the compliance certificate, the chief executive approval for the facility's greywater treatment plant and any plumbing code authorisation and certification for the facility's greywater diversion device in accordance with the proposed Plumbing Code of Australia. There is a maximum penalty of 100 penalty units for this offence.

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

Section 128G extends the existing provision requiring an owner to maintain plumbing and drainage in good condition and working properly to also include maintaining an on-site sewerage facility in good condition and working properly. There is a maximum penalty of 165 penalty units for this offence.

This section further provides that evidence that a greywater use facility has not been operated in accordance with the manufacturer's instructions, is evidence that the facility has not been kept in good condition or has not been operated properly.

128H Obligations of service providers for on-site sewerage facility

Section 128H maintains the existing provisions that require a person (the *service provider*) who services an on-site sewerage facility to give a copy of the service report to the local government and the owner of the facility. In the event of an unsatisfactory service report being received, a local government may decide to issue an enforcement notice ordering remedial action be taken. There is a maximum penalty of 40 penalty units for this offence.

The section also provides that it is an offence for the service provider to make a statement in a report to the local government or the facility's owner that the service provider knows is false, misleading or incomplete in a material particular. There is a maximum penalty of 100 penalty units for this offence.

Division 4 Prohibitions on removing or tampering with particular devices

128I Backflow prevention devices

Section 128I maintains the existing provision that makes it an offence for a person to remove or render inoperable any backflow prevention device installed on premises. The section also provides that an offence is not committed if a person is authorised to take these actions under this Act or another Act.

The section provides for action to be taken when a device has been made inoperable, or removed, in circumstances where it needs to be maintained in good working order. There is a maximum penalty of 165 penalty units for this offence.

128J Hot water control devices

Section 128J maintains the existing provision that makes it an offence for a person to remove or render inoperable any hot water control device installed on a premises. The section also provides that an offence is not committed if a person is authorised to take these actions under this Act or another Act.

For health reasons, hot water systems produce water that can scald persons. Hot water control devices provide for a mixing valve or other control to ensure that sufficient cold water is added to hot water before it flows from a tap, to ensure that the water is cooled to a safe temperature. This section provides for action to be taken when a device has been made inoperable, or removed, in circumstances where it needs to be maintained in good working order. There is a maximum penalty of 165 penalty units for this offence.

Division 5 Discharge and disposal offences

128K Offence about discharging blackwater

Section 128K provides that the owner of premises commits an offence if blackwater is not discharged into the sewer or in an unsewered area into an on-site sewerage facility, a dry vault toilet or an environmentally relevant on-site sewerage facility. There is a maximum penalty of 500 penalty units for this offence.

128L Offence about discharging kitchen greywater from premises

Section 128L provides that the owner of premises commits an offence if kitchen greywater is not discharged into the sewer or in an unsewered area into an on-site sewerage facility, an environmentally relevant on-site sewerage facility or a greywater use facility that includes a greywater treatment plant. There is a maximum penalty of 500 penalty units for this offence.

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

Section 128M provides that the owner of premises in a sewered area commits an offence if greywater, other than kitchen greywater, is not discharged into the sewer, a greywater facility or carried by bucket to garden or lawn areas. For premises not in a sewered area, the greywater must be discharged into an on-site sewerage facility, an environmentally relevant on-site sewerage facility, a greywater use facility or carried by bucket to garden or lawn areas. There is a maximum penalty of 500 penalty units for this offence.

The section also provides that it is an offence for the owner of premises to allow ponding of greywater and runoff from premises, causing health problems or odour nuisance. There is a maximum penalty of 100 penalty units for this offence.

128N Permissible and prohibited discharges

Section 128N maintains the existing provision that makes it is an offence for a person to discharge waste into an on-site sewerage facility if the facility was not installed to process that waste. On-site sewerage facilities are designed primarily for the treatment and disposal of human wastes, and the discharge of waste into a facility that it is not designed to receive may affect the performance of the facility. There is a maximum penalty of 165 penalty units for this offence.

It is also an offence for a person to discharge prohibited wastes into an on-site sewerage facility. The discharge of prohibited wastes to an on-site sewerage facility has potential to cause the facility to malfunction and the effluent disposal system may also be damaged. Prohibited substances are defined in the dictionary. There is a maximum penalty of 165 penalty units for this offence.

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

Section 128O maintains the existing provision that makes it is an offence for the owner of premises to allow the admission of stormwater into an on-site sewerage facility. Admission of stormwater can lead to facility overflows, the discharge of untreated sewage to the environment which can lead to health problems and failure of the treatment processes used to

render sewage fit for disposal to the environment. There is a maximum penalty of 165 penalty units for this offence.

128P Disposal of contents of on-site sewerage facility

Section 128P maintains the existing provision that makes it is an offence for a person to dispose of the contents of an on-site sewerage facility, whether the contents are effluent or not, other than in a place and a way approved by the local government. The contents of on-site sewerage facilities have the capacity to cause health and environmental problems if handled or disposed of inappropriately. There is a maximum penalty of 100 penalty units for this offence.

Division 6 Other offences

128Q Misleading statement by builder, manufacturer or supplier

Section 128Q maintains the existing provision that makes it an offence for builders, manufacturers or suppliers of prefabricated items and built items to make false or misleading claims concerning whether those items have a current chief executive approval. It is also an offence for these people to make false or misleading claims concerning the extent of compliance of a prefabricated item or built item with the conditions of the chief executive approval. There is a maximum penalty of 100 penalty units for this offence.

128R On-site sewerage facility no longer required

Section 128R maintains the existing provision that makes it an offence if the owner of premises does not notify the local government that an on-site sewerage facility is no longer required for the premises, other than because the premises have been connected to a service provider's sewerage system. For example, a facility may no longer be required because the premises are now being served by a new on-site sewerage facility.

After being notified under this clause, a local government may decide to issue an enforcement notice ordering the removal of the on-site sewerage facility that is no longer required and appropriate disposal of its contents. There is a maximum penalty of 40 penalty units for this offence.

128S False or misleading documents

Section 128S makes it an offence for a person to give an inspector or investigator documents containing information they know is false or misleading about a relevant matter. There is a maximum penalty of 40 penalty units for this offence.

128T Obstruction of investigators or inspectors

Section 128T makes it an offence for a person to obstruct (i.e. hinder, resist or attempt to obstruct) an investigator or inspector exercising a power under this Act, unless the person has a reasonable excuse. There is a maximum penalty of 40 penalty units for this offence.

128U Impersonation of investigator or inspector

Section 128U makes it an offence for a person to pretend to be an investigator or inspector. There is a maximum penalty of 40 penalty units for this offence.

Replacement of pt 7, hdg (Reviews)

Clause 35 omits the existing Part 7 heading and inserts a replacement Part 7 heading.

Part 7 Reviews about plumbing and drainage licences

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

Clause 36 removes the division 1 heading.

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

Clause 37 omits sections 132 and 133 from the Act. The omitted sections provided that a person who received an information notice under Part 5 or a notice by a local government about a decision to make a requirement under Part 5 could apply to the decision maker for a review of the original decision. The decision maker was the chief executive officer of the

Department of Local Government, Planning, Sport and Recreation or the local government depending on the nature of the decision.

The omitted sections provided that the reviewer of the original decision was required to give the applicant notice of the review decision. If the applicant was dissatisfied with the review decision the applicant had a right of appeal to a Building and Development Tribunal against the review decision.

With the integration of the approval, enforcement and offence provisions relating to on-site sewerage treatment facilities, the review and appeal provisions have been simplified so that they operate in the same way as plumbing and drainage appeals.

The review process for on-site sewerage matters has been deleted by omitting sections 132 and 133. However, there will be no loss of rights to dispute a chief executive or local government decision, as the applicant will still have a right of appeal direct to a Building and Development Tribunal. The right of appeal to a Building and Development Tribunal will be triggered when a local government or the chief executive officer issues an information notice about a decision. The effect of the amendment merely removes the intermediate step of a review of a decision about on-site sewerage facilities by a decision maker.

Insertion of new s 139A

Clause 38 inserts new section 139A.

139A Allegations of false or misleading matters

New section 139A provides that a proceeding for an offence against the Act about a false or misleading document, information or statement may start by stating that the document, information or statement was 'false or misleading' to the defendant's knowledge without specifying which.

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

Clause 39 omits section 142 as it will be inserted in the *Standard Plumbing and Drainage Regulation 2003*.

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

Clause 40 omits the existing section 143 and inserts a replacement section 143.

143 Local government's obligation to keep particular records

Section 143 was replaced to clarify in more detail what documents relevant to the compliance assessment process must be kept by local governments. The period (designated period) for which the documents must be kept is also stated.

The designated period for the retention of compliance documents for class 2 to 9 buildings means until the building is demolished or removed. For class 1 or 10 buildings, the requirement to keep compliance documents is the earlier of the following to happen:

- the building's demolition or removal;
- if the documents relate to a compliance permit - 10 years from when the permit was given;
- if the documents relate to a compliance certificate – 10 years from when the certificate was given.

The section also provides that the local government must until the designated period ends have copies of the compliance documents available for inspection and make copies available for purchase from its office at a cost no greater than the cost of producing the copy. It is an offence for a local government officer to obstruct or hinder the inspection or copying of compliance assessment documents. There is a maximum penalty of 10 penalty units for this offence.

143A Register of installed on-site sewerage and greywater use facilities

New section 143A provides that local governments must keep a register containing details of all on-site sewerage and greywater use facilities installed in its area. Local governments are required to keep the register from the commencement date of the Act. (Refer section 171).

143B Local government's monitoring obligations for greywater use facilities in sewerred areas

New section 143B provides that local governments must monitor greywater use facilities in sewerred areas to ensure that their operation is in accordance with compliance certificate conditions and to make sure that the facility is not adversely affecting public health, amenity or the environment.

Amendment of s 144 (Chief executive may publish information)

Clause 41 amends the existing provisions and extends the requirement for the chief executive of the Department of Local Government, Planning, Sport and Recreation to publish information considered appropriate to on-site sewerage work, in addition to publishing information about plumbing and drainage or licensed plumbers and drainers. The publication can be on the internet or by some other telecommunication method. For example, additional information about chief executive approvals for built or prefabricated elements/items of an on-site sewerage treatment plant may be published on the internet.

Amendment of s 145 (Regulation-making power)

Clause 42 maintains the existing requirements and extends the provisions to require the Governor in Council to make regulations under this Act about on-site sewerage work and inspecting the work, in addition to plumbing and drainage matters. The *Standard Plumbing and Drainage Regulation* will include compliance assessment requirements for on-site sewerage work.

Renumbering of pt 10, divs 2 to 5, hdgs

Clause 43 provides for the renumbering of part 10 divisions 2 to 5 headings.

Insertion of new pt 10, div 2, hdg

Clause 44 inserts new part 10 division 2 heading.

Division 2 Transitional provisions for Act No. 77 of 2002

Insertion of new pt 10 div 3

Clause 45 inserts new part 10, division 3.

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

160 Definitions for div 3

New section 160 provides meanings for particular words and terms used in division 3.

161 Existing applications for model or type specification approval

New section 161 provides that an application to the chief executive for a model or type specification approval not decided before the commencement of the amended Act must be decided in accordance with the old Part 5 provisions of the Act, as if the provisions were still in force.

If the chief executive gives an information notice approving the application with conditions or refusing the application, the applicant may still apply to the chief executive for a review of the decision under old part 7 division 2 of the Act, as if division 2 was still in force.

162 Existing model or type specification approval

New section 162 provides that a model or type specification approval given by the chief executive before the commencement of the amended Act (under old part 5) continues in force for the rest of the term it was given, as if it was a chief executive approval given after the commencement of the amended Act.

163 Existing on-site sewerage facility applications

New section 163 provides that an application for approval for on-site sewerage facilities under old section 96 that is not decided by a local government before the commencement of the amended Act, must be decided by the local government under the old section 96 provisions as if the provisions were still in force.

If the local government gives an information notice approving the application with conditions or refusing the application, the applicant may still apply to the local government for a review of the decision under old part 7 division 2 of the Act, as if division 2 was still in force.

164 Old section 96 approvals continue

New section 164 provides that an approval for an on-site sewerage facility given by a local government under old section 96 continues in force despite the repeal of old section 96.

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

New section 165 provides that on-site sewerage work done under a local government approval given under old section 96 need not comply with the *Standard Plumbing and Drainage Regulation*. Prior to the commencement of the amended Act, on-site sewerage facilities only needed to comply with the on-site sewerage code or relevant Australian Standards. From the commencement of the amended Act, on-site sewerage work must comply with the *Standard Plumbing and Drainage Regulation* that will call up the Queensland Plumbing and Wastewater Code (QPW Code). The QPW Code replaces the on-site sewerage code and contains the technical requirements for on-site sewerage facilities and greywater use in sewered areas and unsewered areas.

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

New section 166 provides that the provisions of sections 82, 83 and 128B apply to an approval given by a local government for on-site sewerage work performed under an old section 96 approval decided before or after the commencement of the amended Act. References in sections 82(2) and 128B to compliance permit or compliance certificate are taken to be references to the old section 96 approval.

167 On-site facility conditions

New section 167 provides that conditions imposed on an approval for an on-site sewerage facility under old section 96 are taken to be conditions imposed under section 86C when applying the offence provisions of section 128B.

168 Existing notices under old part 5

New section 168 provides that an existing notice given by a local government about an on-site sewerage facility before the commencement of the amended Act which has not been complied with continues to apply in regard to the section under which the notice was given and for the review provisions under old part 7 division 2. However, these requirements do not prevent a local government from giving an enforcement notice under section 116.

169 Appeal right for decisions under old part 5

New section 169 provides that a person has a right of appeal to a Building and Development Tribunal against a decision to issue an information notice under old part 5 division 4, if the information notice is given or entitled to be given before the commencement of the amended Act. An appeal must be lodged with the Tribunal within 20 business days after the person is given the information notice.

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

New section 170 carries over a similar provision to that contained in section 101(12) of the unamended Act. The section provides that sections 128C, 128D and 128E do not apply if the on-site sewerage facility was built or installed before 30 April 1998, unless an application to change the facility is approved by the local government or an enforcement notice is given under section 116 for the facility.

On-site sewerage facilities built or installed before 30 April 1998 were built or installed prior to the commencement date of the now repealed *Standard Sewerage Law*, which although it required compliance with the on-site sewerage code and AS/NZS 1546.1.1998, did not apply that requirement to facilities built or installed before it came into force.

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

New section 171 provides that the requirement for a local government to keep a register containing details of all on-site sewerage and greywater use facilities installed in its area for which it has given a compliance certificate, only applies to facilities installed after the commencement of the amended Act.

Amendment of schedule (Dictionary)

Clause 46 provides for the omission and inclusion of certain definitions.

Part 5 Amendment of Water Act 2000

Act amended in pt 5

Clause 47 amends the *Water Act 2000*.

Amendment of s 824 (Discharging certain materials)

Clause 48 provides for the removal of the existing provision under the *Water Act 2000* that prohibits any use of greywater in sewered areas and requires all greywater in a sewered area to be discharged to the sewer.