

Queensland



PLUMBING AND DRAINAGE BILL 2002

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PLUMBING AND DRAINAGE BILL 2002

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2002

A BILL

FOR

**An Act about plumbing and drainage, the licensing of plumbers and
drainers, on-site sewerage facilities, and for other purposes**

The Parliament of Queensland enacts—	1
PART 1—PRELIMINARY	2
1 Short title	3
This Act may be cited as the <i>Plumbing and Drainage Act 2002</i> .	4
2 Commencement	5
This Act, other than part 15, commences on a day to be fixed by proclamation.	6 7
3 Definitions	8
The dictionary in the schedule defines particular words used in this Act.	9
4 Act binds all persons	10
This Act binds all persons, including the State, and, in so far as the legislative power of the State permits, the Commonwealth and the other States.	11 12 13
PART 2—PLUMBERS AND DRAINERS BOARD	14
<i>Division 1—Establishment, functions and powers</i>	15
5 Establishment of board	16
(1) The Plumbers and Drainers Board is established.	17
(2) The board does not represent the State.	18

6	Functions of board	1
	(1) The board's functions are to—	2
	(a) administer the licensing system under part 3; and	3
	(b) monitor the operation of the licensing system and, if necessary, recommend changes; and	4 5
	(c) promote acceptable standards of competence for the trade; and	6
	(d) receive and investigate complaints about work for which a licence is required; and	7 8
	(e) confer on national policy development and implementation for the trade; and	9 10
	(f) report to the Minister on—	11
	(i) any issue referred to it by the Minister; or	12
	(ii) any issue the board considers the Minister should know about; and	13 14
	(g) perform other functions given to the board under this or another Act.	15 16
	(2) In performing its functions, the board must act independently, impartially and in the public interest.	17 18
7	Powers of board	19
	(1) The board has power to do all things reasonably necessary to be done for performing its functions.	20 21
	(2) Without limiting subsection (1), the board has the powers given to it under this or another Act.	22 23
8	Delegation by board	24
	(1) The board may delegate its powers to—	25
	(a) 1 or more members; or	26
	(b) the chief executive or other appropriately qualified person in the department.	27 28
	(2) However, the board may not delegate its power under this Act to decide to—	29 30

(a) refuse to license an applicant; or	1
(b) refuse to renew a renewable licence; or	2
(c) refuse to restore a renewable licence; or	3
(d) take disciplinary action under part 3, division 7; or	4
(e) change, impose or remove conditions on a licence.	5
<i>Division 2—Membership</i>	6
9 Membership of board	7
The board consists of the following persons appointed by the Governor in Council—	8 9
(a) a representative of each of the following entities—	10
(i) the department in which this Act is administered;	11
(ii) the department in which the <i>Training and Employment Act 2000</i> is administered;	12 13
(iii) the department in which the <i>Health Act 1937</i> is administered;	14 15
(iv) the Local Government Association of Queensland (Incorporated);	16 17
(v) the Master Plumbers' Association of Queensland;	18
(vi) the Communications, Electrical and Plumbing Union, Plumbing Division, Queensland Branch;	19 20
(b) a representative of consumers.	21
10 Appointment of deputy members	22
(1) The Governor in Council may also appoint a deputy to act for each member, mentioned in section 9(a), during the member's absence.	23 24
(2) In appointing a deputy of a member, the Governor in Council must appoint a person who represents the entity which the member, for whom the deputy is being appointed, represents.	25 26 27

(3) In the absence of a member, the deputy for the member has the same duties, powers, protection and rights as the member other than for section 11.¹

11 Chairperson and deputy chairperson of board

(1) The Governor in Council must appoint a member to be the board's chairperson, and another member to be the board's deputy chairperson.

(2) A person may be appointed as the chairperson or deputy chairperson at the same time the person is appointed as a member.

(3) The chairperson or deputy chairperson holds office for the term decided by the Governor in Council, unless the member's term of office ends sooner than the member's term of office as chairperson or deputy chairperson.

(4) A vacancy occurs in the office of chairperson or deputy chairperson if the person holding the office resigns the office by signed notice of resignation given to the Minister or ceases to be a member.

(5) However, a member resigning the office of chairperson or deputy chairperson may continue to be a member.

(6) The deputy chairperson must act as chairperson—

- (a) during a vacancy in the office of chairperson; and
- (b) during all periods when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.

12 Term of appointment

A member must be appointed for a term of not more than 4 years.

13 Disqualification from membership

(1) A person can not become, or continue as, a member if the person—

- (a) is affected by bankruptcy action; or
- (b) is, or has been, convicted of an indictable offence; or

¹ See section 31 (Protection of members from civil liability).

(c) is, or has been, convicted of an offence against this Act, the repealed Act.	1 2
(2) For subsection (1)(a), a person is affected by bankruptcy action if the person—	3 4
(a) is bankrupt; or	5
(b) has compounded with creditors; or	6
(c) as a debtor, has otherwise taken, or applied to take, advantage of any law about bankruptcy.	7 8
14 Vacation of office	9
A member is taken to have vacated office if the member—	10
(a) resigns his or her position on the board by signed notice of resignation given to the Minister; or	11 12
(b) can not continue as a member under section 13; or	13
(c) is absent without the board's permission from 3 consecutive meetings of the board of which due notice has been given.	14 15
15 When notice of resignation takes effect	16
A notice of resignation under section 11(4) or 14(1)(a) takes effect when the notice is given to the Minister or, if a later time is stated in the notice, at the later time.	17 18 19
16 Leave of absence for members	20
(1) The Minister may approve leave of absence of more than 3 meetings for a member.	21 22
(2) If a deputy for the member has not been appointed under section 10, the Minister may appoint a person to act in the office of the member while the member is absent on the approved leave.	23 24 25
(3) Also, if a deputy for the member has been appointed under section 10 but is unable to act in the office of the member during the member's approved leave, the Minister may appoint a person to act in the office of the member while the deputy is unable to act in the office of the member.	26 27 28 29
(4) A person appointed under subsection (2) or (3) must represent the entity or interest the member represents.	30 31

(5) If the member is the deputy chairperson, the Minister may appoint another member to act in the deputy chairperson's office while the deputy chairperson is absent on the approved leave.	1 2 3
17 Remuneration of members	4
A member is entitled to be paid the fees and allowances decided by the Governor in Council.	5 6
18 Report about person's criminal history	7
(1) To help decide whether a person is a suitable person to be appointed as a member or a deputy member, the chief executive may ask the commissioner of the police service for a written report about the person's criminal history.	8 9 10 11
(2) However, the chief executive may make a request about a person under subsection (1) only if the person has given the chief executive written consent for the request.	12 13 14
(3) If asked by the chief executive, the commissioner of the police service must give the chief executive a written report about the criminal history of the person.	15 16 17
(4) The duty imposed on the commissioner of the police service applies only to information in the commissioner's possession or to which the commissioner has access.	18 19 20
(5) The chief executive must destroy a report given to the chief executive under this section as soon as practicable after it is no longer needed for the purpose for which it was requested.	21 22 23
(6) In this section—	24
“ criminal history ”, of a person, means the convictions recorded against the person for offences, in Queensland or elsewhere, whether before or after the commencement of this section.	25 26 27
<i>Division 3—Board business</i>	28
19 Conduct of business	29
Subject to this division, the board may conduct its business, including its meetings, in the way it considers appropriate.	30 31

20	Times and places of meetings	1
	(1) Board meetings are to be held at the times and places the chairperson decides.	2 3
	(2) However, the chairperson must call a meeting if asked, in writing, to do so by the Minister or 4 members.	4 5
	(3) Notice of when and where a meeting of the board must be held, and of the business for the meeting, must be given by the secretary to each member at least 5 business days before the day for the meeting.	6 7 8
21	Quorum	9
	A quorum for the board is 4 members.	10
22	Presiding at meetings	11
	(1) The chairperson must preside at all meetings of the board at which the chairperson is present.	12 13
	(2) If the chairperson is absent from a board meeting, but the deputy chairperson is present, the deputy chairperson must preside.	14 15
	(3) If the chairperson and deputy chairperson are both absent from a board meeting or the offices are vacant, a member chosen by the members present must preside.	16 17 18
23	Conduct of meetings	19
	(1) A question at a board meeting is decided by a majority of the votes of the members present.	20 21
	(2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.	22 23 24
	(3) A member present at the meeting who abstains from voting is taken to have voted for the negative.	25 26
	(4) The board may hold meetings, or allow members to take part in its meetings, by using any technology allowing reasonably contemporaneous and continuous communication between members taking part in the meeting, including, for example, by using teleconferencing.	27 28 29 30

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- (5) A member who takes part in a board meeting under subsection (4) is taken to be present at the meeting. 1
2
- (6) A resolution is validly made by the board, even if it is not passed at a board meeting, if— 3
4
- (a) notice of the resolution is given under procedures approved by the board; and 5
6
- (b) a majority of the board members gives written agreement to the resolution. 7
8

24 Minutes 9

- (1) The board must keep— 10
- (a) minutes of its meetings; and 11
- (b) a record of any resolutions made under section 23(6). 12
- (2) Subsection (3) applies if a resolution is passed at a board meeting. 13
- (3) If asked by a member who voted against the passing of the resolution, the board must record in the minutes of the meeting that the member voted against the resolution. 14
15
16

Division 4—Board committees 17**25 Committees** 18

- (1) The board may establish committees of the board for effectively and efficiently performing its functions. 19
20
- (2) A committee may include a person who is not a member. 21
- (3) The board must decide the terms of reference of a committee. 22
- (4) The functions of a committee are to— 23
- (a) advise and make recommendations to the board about matters, within the scope of the board's functions, referred by the board to the committee; and 24
25
26
- (b) exercise powers delegated to it by the board.² 27

2 See section 8 (Delegation by board).

(5) A committee must keep a record of the decisions it makes when exercising a power delegated to it by the board.	1 2
(6) The board may decide matters about a committee that are not provided for under this Act, including, for example, the way a committee must conduct meetings.	3 4 5
26 Remuneration of committee members	6
A committee member is entitled to be paid the fees and allowances decided by the Governor in Council.	7 8
<i>Division 5—Disclosure of interests by board members and committee members</i>	9 10
27 Disclosure of interests	11
(1) This section applies to a board or committee member (the “interested person”) if—	12 13
(a) the interested person has a direct or indirect interest in a matter being considered, or about to be considered, by the board or committee; and	14 15 16
(b) the interest could conflict with the proper performance of the person’s duties about the consideration of the matter.	17 18
(2) As soon as practicable after the relevant facts come to the interested person’s knowledge, the person must disclose the nature of the interest to a board or committee meeting.	19 20 21
(3) Unless the board or committee otherwise directs, the interested person must not—	22 23
(a) be present when the board or committee considers the matter; and	24 25
(b) take part in a decision of the board or committee about the matter.	26 27
(4) The interested person must not be present when the board or committee is considering whether to give a direction under subsection (3).	28 29
(5) If there is another member who must, under subsection (2), also disclose an interest in the matter, the other member must not—	30 31

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- (a) be present when the board or committee is considering whether to give a direction under subsection (3) about the interested person; or
- (b) take part in making the decision about giving the direction.
- (6) If—
- (a) because of this section, a member is not present at a meeting for considering or deciding a matter, or for considering or deciding whether to give a direction under subsection (3); and
- (b) there would be a quorum if the member were present;
- the remaining members present are a quorum for considering or deciding the matter, or for considering or deciding whether to give the direction, at the meeting.
- (7) A disclosure under subsection (2) must be recorded in the board's or committee's minutes.
- (8) If the member is a licensee, the member does not have a direct or indirect interest in a matter if the interest arises merely because the member is a licensee.

*Division 6—Directions by Minister***28 Minister's power to give directions in the public interest**

- (1) The Minister may give the board a written direction about a matter relevant to the performance of its functions if the Minister is satisfied it is necessary to give the direction in the public interest.
- (2) Without limiting subsection (1), the direction may be to—
- (a) give reports and information; or
- (b) apply to the board a policy, standard or other instrument applying to a public sector unit.
- (3) The direction can not be about—
- (a) licensing, or refusing to license, an applicant for a licence; or
- (b) renewing, or refusing to renew, a renewable licence; or
- (c) restoring, or refusing to restore, a renewable licence; or
- (d) cancelling a licence; or

(e) changing, imposing, or removing conditions on a licence.	1
(4) The board must comply with the direction.	2
<i>Division 7—Other provisions about the board</i>	
29 Secretary and other officers	4
(1) The chief executive may, by gazette notice, appoint a secretary to the board, and other officers the chief executive considers appropriate, to help the board to perform its functions.	5 6 7
(2) A public service officer may be appointed under subsection (1) or may be assigned by the chief executive to perform duties to help the board, and may hold the appointment or perform the duties concurrently with any other appointment the officer holds in the public service.	8 9 10 11
(3) The secretary has the powers and must perform the functions of the secretary under this Act.	12 13
(4) Without limiting subsection (3), the secretary must ensure minutes of the board's meetings are kept.	14 15
30 Authentication of documents	16
A document made by the board is sufficiently made if it is signed by the secretary.	17 18
31 Protection of members from civil liability	19
(1) A member, or a person acting in the office of a member, is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act.	20 21 22
(2) If subsection (1) prevents a civil liability attaching to the member or person, the liability attaches instead to the State.	23 24
32 Revenue from fees	25
(1) Revenue received by the board from fees fixed under a regulation must be deposited in—	26 27
(a) a financial-institution account of the department; or	28

(b) an account used for depositing other amounts of the department.	1
(2) Accounts for the revenue must be kept as part of the accounts of the department.	2 3
(3) Revenue received under subsection (1) must be applied toward the administration of this Act.	4 5
(4) Funds that are not immediately required for the administration of this Act may be applied to the objects and purposes appearing to the chief executive to advance the principles, standards or trade of plumbing and drainage.	6 7 8 9
33 Report on the board's operations	10
(1) The board must give the chief executive a written report on its operations each year.	11 12
(2) The report must include copies of all ministerial directions given to the board under section 28 during the year.	13 14
(3) However, the board must exclude from the copies mentioned in subsection (2) all information likely to identify a person mentioned in the direction.	15 16 17

PART 3—LICENSING

Division 1—Classes of licences

34 Classes of licences	20
(1) The board may issue the following classes of licences—	21
(a) a plumbers licence;	22
(b) a drainers licence;	23
(c) a restricted licence. ³	24

³ Also, see section 41 (Imposing conditions on licence).

(2) Also, the board may issue a provisional licence for any class of licence mentioned in subsection (1).	1 2
35 Work that may be performed under licences	3
(1) The holder of a plumbers licence may only perform plumbing work for which the licence is issued.	4 5
(2) The holder of a drainers licence may only perform drainage work for which the licence is issued.	6 7
(3) The holder of a restricted licence may only perform work stated in the licence for plumbing, drainage or other work regulated under this Act.	8 9
(4) The holder of a provisional licence may only perform plumbing or drainage work for which the licence is issued.	10 11
 <i>Division 2—Applying for, and issue of, licences</i>	 12
36 Procedural requirements for application	13
(1) An application for a licence must—	14
(a) be made to the board; and	15
(b) be in the approved form; and	16
(c) be accompanied by—	17
(i) satisfactory evidence of relevant practical experience and qualifications; and	18 19
(ii) the fee prescribed under a regulation; and	20
(iii) any other documents, identified in the approved form, the board reasonably requires; and	21 22
(iv) if the applicant is licensed by an interstate or the New Zealand licensing authority, written details of any conditions of the licence.	23 24 25
(2) Information in the application must, if the approved form requires, be verified by a statutory declaration.	26 27

37 Entitlement to licence	1
An individual is entitled to a licence if the board is, on application by the individual, satisfied the individual—	2 3
(a) has the qualifications and practical experience required by regulation for the licence; and	4 5
(b) has not had an interstate or New Zealand licence suspended or cancelled.	6 7
38 Inquiries into application	8
(1) Before deciding the application, the board may—	9
(a) investigate the applicant, including whether or not the applicant has been convicted of an offence against this Act or the repealed Act; and	10 11 12
(b) by notice given to the applicant, require the applicant to give the board, within a reasonable time of at least 20 business days stated in the notice, further information or a document the board reasonably requires to decide the application; and	13 14 15 16
(c) by notice given to the applicant, require the applicant to undergo a written, oral or practical examination within a reasonable time of at least 20 business days stated in the notice, and at a reasonable place.	17 18 19 20
(2) The board may require the information or document mentioned in subsection (1)(b) to be verified by a statutory declaration.	21 22
(3) The purpose of an examination under subsection (1)(c) must be to assess the applicant's ability to competently practise the trade.	23 24
(4) The applicant is taken to have withdrawn the application if, within the stated time, the applicant—	25 26
(a) does not comply with a requirement under subsection (1)(b); or	27
(b) does not undergo an examination under subsection (1)(c).	28
(5) A notice under subsection (1)(b) or (c) must be given to the applicant within 40 business days after the board receives the application.	29 30

39 Further consideration of application

(1) This section applies if the board considers it needs further time to make a decision on the application because of the complexity of the matters that need to be considered in deciding the application.

Example for subsection (1)—

An application requiring the board to obtain and consider information about the applicant from a foreign licensing authority.

(2) The board may at any time before the final consideration day give notice to the applicant that—

(a) because of the complexity of the matters that need to be considered in deciding the application, the board needs further time to decide the application; and

(b) the period within which the board must decide the application is extended to a day (the “**extended day**”) that is 40 business days after the final consideration day.

(3) Also, the applicant and board may at any time before the final consideration day agree in writing on a day (the “**agreed extended day**”) by which the application must be decided.

(4) The board is taken to have decided to refuse to license the applicant if it does not decide the application by—

(a) if subsection (2) applies—the extended day; or

(b) if subsection (3) applies—the agreed extended day; or

(c) if both subsections (2) and (3) apply—the later of the extended day or agreed extended day.

(5) In this section—

“**final consideration day**” means the later of the following days—

(a) the day that is 40 business days after receipt of the application;

(b) if the board has, under section 38(1)(b), required the applicant to give the board further information or a document—the day that is 40 business days after the board receives the further information or document.

40 Decision on application for licence

(1) The board must consider the application and decide to—

(a) license the applicant; or	1
(b) provisionally license the applicant for the class of licence applied for; or	2 3
(c) refuse to license the applicant.	4
(2) The board may act under subsection (1)(b) only if the board reasonably considers the applicant is eligible for a licence but—	5 6
(a) the board is satisfied the applicant needs more practical experience before being licensed; or	7 8
(b) evidence of the applicant’s practical experience or qualifications has not been given to the board.	9 10
41 Imposing conditions on licence	11
(1) The board may issue a licence, including a provisional licence, on conditions the board considers necessary or desirable for the licensee to competently practise the trade.	12 13 14
(2) The board must not record details of the conditions in the register unless it reasonably believes it is in the interests of users of the licensee’s services or the public to know the details.	15 16 17
42 Steps to be taken after application decided	18
(1) If the board decides to license the applicant, including a provisional licence, it must as soon as practicable issue the appropriate licence to the applicant.	19 20 21
(2) If the board issues a licence with conditions, or issues a provisional licence instead of the licence applied for or refuses to license the applicant, it must as soon as practicable give the applicant an information notice about the conditions, provisional licence or refusal.	22 23 24 25
(3) If the board refuses to license the applicant or the applicant withdraws the application, the board must refund to the applicant the application fee paid, less the amount of the cost to the board of processing the application.	26 27 28 29

43 Failure to decide application	1
(1) Subject to subsections (2) and (3), if the board fails to decide the application within 40 business days after its receipt, the failure is taken to be a decision by the board to refuse to license the applicant.	2 3 4
(2) Subsection (3) applies if the board has—	5
(a) under section 38(1)(b), required the applicant to give the board further information or a document; or	6 7
(b) under section 38(1)(c), required the applicant to undergo an examination.	8 9
(3) The board is taken to have decided to refuse to license the applicant if it fails to decide the application by the later of the following days—	10 11
(a) the day that is 40 business days after the board receives the further information or document;	12 13
(b) the day that is 40 business days after the board receives the results of the examination.	14 15
(4) This section is subject to section 39.	16
44 Form of licence	17
(1) A licence must be in the approved form.	18
(2) The approved form must provide for—	19
(a) the licensee’s name and address; and	20
(b) the expiry date of the licence; and	21
(c) the licence number; and	22
(d) the licence class; and	23
(e) any conditions attached to the licence.	24
45 Duration of licence	25
(1) A licence remains in force for the period stated in it.	26
(2) The period mentioned in subsection (1) must not be more than—	27
(a) for a provisional licence—1 year; or	28
(b) for any other licence—5 years.	29

<i>Division 3—Upgrading provisional licences</i>		1
46 Board may upgrade provisional licence		2
(1) Subsection (2) applies if—		3
(a) an individual applied for a licence; and		4
(b) the board gave the individual a provisional licence instead of the licence the individual applied for; and		5 6
(c) the provisional licence has not expired; and		7
(d) the provisional licensee satisfies the board about a matter that caused the board to give the provisional licence rather than the licence.		8 9 10
(2) The board may, under division 2, license the applicant, with or without the conditions originally applied for.		11 12
(3) The provisional licence is cancelled when the licence applied for is issued.		13 14
<i>Division 4—Renewing licences</i>		15
47 Notice of expiry of licence		16
The board must give each licensee notice of the expiry of the licensee’s licence at least 40 business days before its expiry.		17 18
48 Procedural requirements for applications to renew a licence		19
(1) A licensee, other than a provisional licensee, may apply to the board for the renewal of the licensee’s licence.		20 21
(2) The application must be—		22
(a) made after the notice under section 47 is given to the licensee and before the licence expires; and		23 24
(b) in the approved form; and		25
(c) accompanied by—		26
(i) the fee prescribed under a regulation; and		27

(ii) any documents, identified in the approved form, the board reasonably requires to decide the application.	1 2
(3) The fee mentioned in subsection (2)(c)(i) is the reduced fee prescribed under a regulation if the applicant gives the board a statutory declaration stating—	3 4 5
(a) the applicant is retired; and	6
(b) the applicant no longer performs plumbing or drainage work for payment; and	7 8
(c) the applicant does not intend to perform plumbing or drainage work for payment.	9 10
49 Existing licence taken to be in force while application is considered	11 12
(1) If an application is made under section 48 to renew a licence, the licence is taken to continue in force from the day it would, apart from this section, have expired until the day a new licence is issued to the applicant under section 50(1).	13 14 15 16
(2) Subsection (1) does not apply if the licence is earlier suspended under this Act.	17 18
50 Steps to be taken after application made	19
(1) If the application complies with section 48, the board must, as soon as practicable, issue a new licence to the applicant.	20 21
(2) The licence issued under subsection (1) must be subject to the same conditions as the licence that expired.	22 23
(3) If the application does not comply with section 48, the board must, as soon as practicable, tell the applicant how the application does not comply with section 48.	24 25 26
<i>Division 5—Restoring expired licences</i>	27
51 When application to restore licence may be made	28
(1) If a licence has expired, the person who was the licensee for the licence may ask the board to restore the licence.	29 30

(2) The application to restore the licence must be made within 1 year after the day the licence expired.	1 2
52 Procedural requirements for applications to restore licence	3
(1) The application must—	4
(a) be in the approved form; and	5
(b) be accompanied by—	6
(i) the fee prescribed under a regulation; and	7
(ii) any documents, identified in the approved form, the board reasonably requires to decide the application.	8 9
(2) Information in the application must, if the approved form requires, be verified by a statutory declaration.	10 11
53 Previous conditions continue for expired licence	12
If the board decides to restore the applicant's licence, the licence is subject to the conditions attaching to the licence immediately before its expiry.	13 14 15
54 How division 4 applies for applying to restore licence	16
For restoring a licence, division 4 applies as if—	17
(a) an application for renewal of a licence were an application for restoration of a licence; and	18 19
(b) an applicant for renewal of a licence were an applicant for restoration of a licence; and	20 21
(c) a renewal of a licence were a restoration of a licence.	22
<i>Division 6—Reviewing licence conditions</i>	23
55 How licensee may start review	24
(1) A licensee whose licence is subject to conditions may apply to the board for a review of the conditions.	25 26
(2) However, the application must not be made—	27

-
- (a) during the review period applying to the conditions; or 1
- (b) if the licensee has applied to the Queensland Building Tribunal 2
for a review of the conditions—while the decision to impose the 3
conditions is being reviewed by the Queensland Building 4
Tribunal. 5
- (3) The application must— 6
- (a) be in the approved form; and 7
- (b) be accompanied by the fee prescribed under a regulation. 8
- (4) The approved form must require the licensee to state— 9
- (a) that the licensee believes the conditions are no longer 10
appropriate; and 11
- (b) the reason for the licensee’s belief. 12
- (5) The board must consider the application and make a decision under 13
section 59. 14

56 Reviewing conditions during review period 15

- (1) This section applies if, during the review period applying to the 16
conditions, the board reasonably believes the conditions may no longer be 17
appropriate. 18
- (2) The board may, with the written agreement of the licensee review the 19
conditions. 20

57 Board’s powers before making decision 21

- (1) Before making its decision under section 59, the board— 22
- (a) may investigate the licensee; and 23
- (b) may, by notice given to the licensee, require the licensee to give 24
the board, within a reasonable time of at least 20 business days 25
stated in the notice, further information or a document the board 26
reasonably requires to make the decision. 27
- (2) A notice under subsection (1)(b) must be given to the licensee within 28
20 business days after the board agrees with the licensee to review the 29
conditions. 30

- (3) The board may require the information or document mentioned in subsection (1)(b) to be verified by a statutory declaration. 1
2
- 58 Deemed withdrawal of application etc.** 3
- (1) Subsections (2) and (3) apply if the conditions are being reviewed because of an application made by the licensee under section 55. 4
5
- (2) The licensee is taken to have withdrawn the application if, within the stated time, the licensee does not comply with a requirement under section 57(1)(b). 6
7
8
- (3) A notice under section 57(1)(b) must be given to the licensee within 40 business days after the board receives the application. 9
10
- (4) Subsection (5) applies if the conditions are being reviewed under section 56. 11
12
- (5) The board is taken to have decided to confirm the conditions if, within the stated time, the licensee does not comply with a requirement under section 57(1)(b). 13
14
15
- 59 Decision on review of conditions** 16
- (1) After reviewing the conditions, the board must decide to— 17
- (a) confirm the conditions; or 18
 - (b) remove the conditions; or 19
 - (c) change the conditions. 20
- (2) In making its decision, the board must consider whether the conditions remain necessary or desirable for the licensee to competently practise the trade. 21
22
23
- (3) If the board decides to confirm or change the conditions, the conditions may only be confirmed or changed for the reasons the conditions were initially imposed. 24
25
26
- (4) If the board decides to confirm or change the conditions, it must as soon as practicable— 27
28
- (a) also decide the review period applying to the confirmed or changed conditions; and 29
30
 - (b) give the licensee an information notice about the decision. 31

(5) If the board decides to remove the conditions, it must as soon as practicable give the licensee notice of the decision.	1 2
60 When decision takes effect	3
(1) If the board decides to confirm the conditions, the decision takes effect when it is made.	4 5
(2) If the board decides to change the conditions, the change—	6
(a) takes effect when an information notice about the decision is given to the licensee under section 59(4)(b); and	7 8
(b) does not depend on—	9
(i) the licence being amended to record the change; or	10
(ii) a replacement licence being issued.	11
(3) If the board decides to remove the conditions, the removal—	12
(a) takes effect when notice of the decision is given to the licensee under section 59(5); and	13 14
(b) does not depend on—	15
(i) the licence being amended to record the removal; or	16
(ii) a replacement licence being issued.	17
61 Failure by board to make decision on application	18
(1) Subject to subsections (2) and (3), if the board fails to decide an application under section 55 ⁴ within 40 business days after its receipt, the failure is taken to be a decision by the board to confirm the conditions.	19 20 21
(2) Subsection (3) applies if the board has under section 57(1)(b), ⁵ required the applicant to give the board further information or a document.	22 23
(3) The board is taken to have decided to confirm the conditions if the board fails to decide the application within 40 business days after the day the board receives the further information or document.	24 25 26

4 Section 55 (How licensee may start review)

5 Section 57 (Board's powers before making decision)

62 Failure by board to make decision on review agreed to under s 56	1
(1) Subject to subsections (2) and (3), if the board fails to make a decision on a review agreed to under section 57 ⁶ within 40 business days after the agreement, the failure is taken to be a decision by the board to confirm the conditions.	2 3 4 5
(2) Subsection (3) applies if the board has under section 57(1)(b), required the licensee to give the board further information or a document.	6 7
(3) The board is taken to have decided to confirm the conditions if the board fails to make a decision on the review within 40 business days after the day the board receives the further information or document.	8 9 10
63 Amendment of, or replacing, licence	11
(1) This section applies if—	12
(a) a licensee receives an information notice, under section 59(4)(b), about decisions relating to a change of a condition of the licensee’s licence; or	13 14 15
(b) a licensee receives a notice, under section 59(5), about a decision to remove a condition of the licensee’s licence.	16 17
(2) The licensee must, unless the licensee has a reasonable excuse, return the licence to the board within 10 business days after receiving the notice.	18 19
Maximum penalty—10 penalty units.	20
(3) On receiving the licence, the board must—	21
(a) amend the licence in an appropriate way and return the amended licence to the licensee; or	22 23
(b) if the board does not consider it practicable to amend the licence, issue another licence to the licensee to replace the licence returned to the board.	24 25 26

6 Section 57 (Reviewing conditions during review period)

<i>Division 7—Disciplinary action</i>		1
64	Grounds for discipline	2
	The board may take disciplinary action against a licensee if the board is satisfied the licensee has—	3 4
	(a) obtained the licensee’s licence because of a materially false or misleading representation or declaration; or	5 6
	(b) not competently performed, or has been involved in the unsatisfactory performance of, work the licensee is authorised to carry out under the licensee’s licence; or	7 8 9
	(c) directed or allowed another licensee to perform work—	10
	(i) the other licensee is authorised to carry out under his or her licence; and	11 12
	(ii) in a way that does not conform with the appropriate standards; or	13 14
	(d) directed or allowed a person to perform work in contravention of section 119; or	15 16
	(e) had the licensee’s interstate or New Zealand licence conditioned, suspended or cancelled; or	17 18
	(f) been convicted of an offence against this Act or the repealed Act.	19
65	Disciplinary action that may be taken	20
	(1) In disciplining a licensee, the board may take the action, or order the action be taken, that the board considers reasonable in the circumstances.	21 22
	(2) The board may, for example, do any 1 or more of the following—	23
	(a) reprimand the licensee;	24
	(b) for plumbing or drainage work—order the work to be rectified in accordance with the Standard Plumbing and Drainage Regulation;	25 26 27
	(c) impose new conditions, or change conditions, on the licence;	28
	(d) suspend the licensee’s licence for the period decided by the board;	29 30
	(e) cancel the licensee’s licence.	31

66 Show cause notice

1

(1) If the board believes the ground exists to act under section 65(2), the board must before taking the action give the licensee a notice (a “**show cause notice**”).

2

3

4

(2) The show cause notice must—

5

(a) state the ground for proposing to act under section 65(2); and

6

(b) outline the facts and circumstances forming the basis for the ground; and

7

8

(c) invite the licensee to show within a stated period (the “**show cause period**”) why the action should not be taken.

9

10

(3) The show cause period must be a period ending not less than 20 business days after the show cause notice is given to the licensee.

11

12

67 Representations about show cause notice

13

(1) The licensee may make written representations about the show cause notice to the board in the show cause period.

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15

(2) If the board is satisfied the licensee may be disadvantaged if the licensee does not make personal representations to the board, the board may allow the licensee to make personal representations about the show cause notice to the board in the show cause period.

16

17

18

19

(3) The board must consider all representations (the “**accepted representations**”) made under subsection (1) or (2).

20

21

68 Board must decide action to be taken

22

After considering the accepted representations for the show cause notice, the board must decide to—

23

24

(a) take no further action about the matter; or

25

(b) take disciplinary action against the licensee.

26

69 Board must advise licensee of its decision

27

(1) If the board decides to take no further action about the matter, the board must give the licensee notice that no further action is to be taken about the matter.

28

29

30

(2) If the board decides to take disciplinary action against the licensee, the board must give the licensee an information notice.	1 2
70 When suspension or cancellation takes effect	3
If the board suspends or cancels the licensee's licence, the licence is suspended or cancelled from the day the information notice is given to the licensee.	4 5 6
71 Returning suspended or cancelled licence to board	7
(1) If the board suspends or cancels a licence, the licensee or former licensee must return the licence to the board within 10 business days after receiving the information notice, unless the licensee or former licensee has a reasonable excuse.	8 9 10 11
Maximum penalty—10 penalty units.	12
(2) If the licence is suspended, the board must return the licence to the licensee as soon as practicable after the suspension period.	13 14
<i>Division 8—General provisions about licences</i>	
72 Surrendering licence	15 16
(1) A licensee may surrender the licensee's licence by notice given to the board.	17 18
(2) The surrender takes effect—	19
(a) on the day the notice is given to the board; or	20
(b) if a later day of effect is stated in the notice, on the later day.	21
(3) The licensee must return the licence to the board within 10 business days after the day the surrender takes effect, unless the licensee has a reasonable excuse.	22 23 24
Maximum penalty for subsection (3)—10 penalty units.	25
73 Replacing licence	26
(1) A licensee may apply to the board for the replacement of the licensee's licence if it has been lost, stolen, destroyed or damaged.	27 28

(2) The application must be—	1
(a) made to the board; and	2
(b) in the approved form; and	3
(c) accompanied by the fee prescribed under a regulation.	4
(3) Information in the application must, if the approved form requires, be verified by a statutory declaration.	5 6
(4) If the board is satisfied the licence has been lost, stolen or destroyed, or damaged, the board must—	7 8
(a) replace the lost, stolen, destroyed or damaged licence with another licence; and	9 10
(b) give the replacement licence to the applicant.	11
74 Certified copy of licence	12
A licensee may, on payment of the fee prescribed under a regulation, obtain from the board a certified copy of the licensee's licence.	13 14
75 Notice of change in circumstances	15
(1) Subsection (2) applies if the licensee—	16
(a) changes the licensee's address; or	17
(b) holds an interstate or New Zealand licence and the licence is conditioned, suspended or cancelled; or	18 19
(c) is convicted of an offence against this Act or the repealed Act.	20
(2) The licensee must give the board written notice of the matter.	21
Maximum penalty—	22
(a) if the offence relates to subsection (1)(a)—1 penalty unit; or	23
(b) if the offence relates to subsection (1)(b) or (c)—10 penalty units.	24 25
(3) The notice must be given to the board within 20 business days after the change.	26 27

76	Notice of certain events to interstate licensing authorities and other entities	1
		2
	(1) This section applies if—	3
	(a) a licence is cancelled under this Act; or	4
	(b) conditions are imposed, under this Act, on a licence; or	5
	(c) conditions on a licence are removed under this Act.	6
	(2) As soon as practicable after an event mentioned in subsection (1) happens, the board must give notice about the event to each interstate or the New Zealand licensing authority with which the board is aware the licensee is licensed.	7
		8
		9
		10
	(3) Also, the board may give notice about the event to any of the following—	11
		12
	(a) professional or industry associations of which the licensee is eligible to be a member;	13
		14
	(b) an employer of the licensee;	15
	(c) another entity having a connection with the trade.	16
	(4) However, the board must not give a notice about the event to an entity under subsection (3) unless the board reasonably believes the entity needs to know about the event.	17
		18
		19
	(5) A notice under this section may include the information the board considers appropriate in the circumstances.	20
		21
77	Register of licences	22
	The board must keep a register of all licences and matters affecting licences.	23
		24

PART 4—COMPLIANCE ASSESSMENT

1

Division 1—Preliminary

2

78 Compliance permit

3

(1) A “**compliance permit**” authorises regulated work to be carried out—

4
5

(a) to the extent stated in the permit; and

6

(b) subject to any conditions for achieving compliance.

7

(2) A compliance permit has effect for—

8

(a) the period prescribed under a regulation; or

9

(b) if no period is prescribed under paragraph (a)—2 years from the day the compliance permit was given.

10
11

(3) However, if the regulated work starts while the compliance permit has effect, the permit continues to have effect.

12
13

(4) A compliance permit attaches to the land, the subject of the permit, and binds the owner, the owners, successors in title and any occupier of the land.

14
15
16**79 Compliance certificate**

17

A “**compliance certificate**” approves regulated work to the extent stated in the certificate.

18
19*Division 2—Compliance assessment generally*

20

80 Purpose of compliance assessment

21

The purpose of compliance assessment is to allow for—

22

(a) a plan about particular proposed regulated work to be assessed for compliance with the Standard Plumbing and Drainage Regulation and a compliance permit to be issued for the plan; and

23
24
25
26

(b)	regulated work to be assessed for compliance with the Standard Plumbing and Drainage Regulation and a compliance certificate to be issued for the work.	1 2 3
81	Regulated work must be assessed for compliance	4
	Regulated work must be assessed for compliance with the Standard Plumbing and Drainage Regulation.	5 6
82	Plans and all plumbing and drainage work must comply	7
(1)	A person who carries out any plumbing or drainage work must ensure the work complies with the Standard Plumbing and Drainage Regulation.	8 9
	Maximum penalty—165 penalty units.	10
(2)	Subsection (1) applies even if a compliance permit given by a local government or public sector entity is contrary to the Standard Plumbing and Drainage Regulation.	11 12 13
83	Compliance permit required for certain regulated work	14
(1)	Subject to subsection (2), a person must not carry out regulated work unless the person has a compliance permit for the work.	15 16
	Maximum penalty—1 665 penalty units.	17
(2)	Subsection (1) does not apply to regulated work a local government decides by resolution is work for which a compliance permit is not required.	18 19 20
(3)	If a local government makes a resolution for subsection (2), the local government must—	21 22
(a)	give a copy of the resolution to the chief executive; and	23
(b)	ensure a copy of it is open to inspection under the <i>Local Government Act 1993</i> .	24 25
84	Regulated work by a public sector entity	26
(1)	This section applies to plans for regulated work and regulated work carried out by, or for, a public sector entity.	27 28
(2)	The entity must—	29

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- (a) carry out compliance assessment of the plans or work; or 1
- (b) request the local government to carry out the compliance 2
assessment. 3
- (3) If the entity or the local government is satisfied the plans or work 4
comply with the Standard Plumbing and Drainage Regulation, the entity or 5
local government must issue— 6
- (a) for a plan—a compliance permit; or 7
- (b) for work—a compliance certificate. 8
- (4) If the entity issues the permit or certificate, it must give a copy to the 9
local government. 10

Division 3—Assessing plans 11**85 Process for assessing plans** 12

- (1) A request for compliance assessment of a plan for regulated work (a 13
“**compliance request**”) must be— 14
- (a) in the approved form; and 15
- (b) made to the local government; and 16
- (c) accompanied by the fee fixed by resolution of the local 17
government. 18
- (2) The local government may give the person making the request, a 19
written notice (an “**information request**”), requesting further information 20
needed to assess the plan. 21
- (3) An information request must be made within 10 business days after 22
the plan is received. 23
- (4) The compliance request must be decided within 20 business days— 24
- (a) if an information request is not made—after receiving the 25
compliance request; or 26
- (b) if an information request is made—after receiving the 27
information requested. 28
- (5) The local government must in deciding the compliance request— 29
- (a) give the person making the request a compliance permit; or 30
- (b) refuse to give a compliance permit. 31

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- (6) A compliance permit may be given on reasonable and relevant conditions decided by the local government for achieving compliance. 1
2
- (7) If the local government gives a compliance permit, the local government must also give a copy of the permit to the owner of the premises to which the permit relates. 3
4
5
- (8) If the local government does not decide the compliance request within the time stated in subsection (4), the request is taken to have been refused. 6
7
8
- (9) If the local government refuses to give a compliance permit or gives a compliance permit on conditions, the local government must give the person who made the request an information notice about the decision.⁷ 9
10
11

Division 4—Assessing plumbing and drainage work 12**86 Process for assessing regulated work** 13

- (1) A request for compliance assessment of regulated work must be— 14
- (a) in the approved form; and 15
 - (b) made to the local government; and 16
 - (c) accompanied by the fee fixed by resolution of the local government. 17
18
- (2) A request to assess the work at a particular stage may be made by phone or electronically. 19
20
- (3) The local government must assess the work at the stages prescribed under a regulation. 21
22
- (4) After assessing the work the local government may ask the person making the request to supply a plan of the assessed work. 23
24
- (5) The request must be decided within 3 business days— 25
- (a) if the local government has not requested a plan of the assessed work—after assessing the completed work; or 26
27

⁷ 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.

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(b) if the local government has requested a plan of the assessed work—after receiving the plan.	1 2
(6) The local government must in deciding the request—	3
(a) give the person making the request a compliance certificate; or	4
(b) refuse to give a compliance certificate.	5
(7) If the local government gives a compliance certificate, the local government must also give a copy of the certificate to the owner of the premises to which the certificate relates.	6 7 8
(8) If the local government does not decide the request within the time stated in subsection (5), the request is taken to have been refused.	9 10
(9) If the local government refuses to give a compliance certificate, the local government must give the person who made the request an information notice about the decision. ⁸	11 12 13
 87 Minor work	 14
(1) If a person carries out minor work, the person must, within 20 business days after carrying out the work, give written notice to the local government stating the work has been completed.	15 16 17
Maximum penalty—10 penalty units.	18
(2) The local government may, but need not, assess the work.	19
 88 Unregulated work	 20
If a person carries out unregulated work, the person need not notify the local government about the work.	21 22

⁸ 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.

<i>Division 5—Standard Plumbing and Drainage Regulation</i>	1
89 Administration of Standard Plumbing and Drainage Regulation	2
(1) Each local government must administer the Standard Plumbing and Drainage Regulation for its area.	3 4
(2) However, if an area within a local government’s area is not under the local government’s control, the entity that has control of the area must administer the Standard Plumbing and Drainage Regulation for the area.	5 6 7
(3) Subsection (4) applies if—	8
(a) an area within a local government’s area is not under the local government’s control; or	9 10
(b) an area adjoining a local government’s area is not part of a local government area.	11 12
(4) The local government may, if asked by the entity that has control of the area, administer the Standard Plumbing and Drainage Regulation for the area.	13 14 15
90 Standard Plumbing and Drainage Regulation may prescribe additional requirements and actions	16 17
The Standard Plumbing and Drainage Regulation may prescribe—	18
(a) requirements for a plan mentioned in section 85 or 86; or	19
(b) additional actions that may, or must, be taken by the local government.	20 21

PART 5—ON-SITE SEWERAGE FACILITIES	1
<i>Division 1—Preliminary</i>	2
91 Definition for pt 5	3
In this part—	4
“on-site sewerage facility”” does not include an on-site sewerage facility	5
that consists of, or that includes, a sewage treatment works the	6
operation of which is an environmentally relevant activity under the	7
<i>Environmental Protection Act 1994</i> .	8
<i>Division 2—Codes and standards applying to on-site sewerage facilities</i>	9
92 Codes and standards applying to on-site sewerage facilities	10
(1) For the construction, installation and operation of on-site sewerage	11
facilities that are not chemical, composting or incinerating toilets, the	12
following apply—	13
(a) the on-site sewerage code;	14
(b) to the extent the facility consists of a septic tank—AS/NZS 1546.	15
(2) For subsection (1)(b), AS/NZS 1546 is taken to apply to all septic	16
tanks and not merely to septic tanks of a size mentioned in AS/NZS 1546.	17
(3) For the construction, installation and operation of on-site sewerage	18
facilities that are chemical, composting or incinerating toilets, the design	19
rules prescribed under a regulation under the <i>Environmental Protection Act</i>	20
<i>1994</i> apply. ⁹	21

⁹ See the *Environmental Protection (Waste Management) Regulation 2000*, schedule 8, part 2.

Division 3—Model and type specification approvals**93 Model approval for prefabricated items**

(1) A person may apply to the chief executive for an approval (a “**model approval**”) for a stated prefabricated item.

(2) The chief executive may give the model approval only if the chief executive is reasonably satisfied the item conforms with the on-site sewerage code.

(3) The chief executive may give the model approval on conditions, including conditions about the way the item must be manufactured, installed, operated, serviced and maintained.

Example—

The chief executive may give a model approval for a particular model of on-site sewage treatment plant on conditions including—

- a plant must be supplied with evidence of the chief executive’s model approval given under this section
- a plant must be supplied with details of the model of the plant
- a plant must be supplied with instructions for its installation, operation and maintenance.

(4) A model approval lasts for 5 years or a shorter time decided by the chief executive when giving the approval.

(5) Within a reasonable time after giving a model 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 the place stated in the notice.

(6) If the chief executive gives the model approval on conditions or refuses to give a model approval, the chief executive must give the person an information notice about the decision.

94 Type specification approval for built items	1
(1) A person may apply to the chief executive for an approval (a “ type specification approval ”) for a stated built item.	2 3
(2) The chief executive may give the type specification approval only if the chief executive is reasonably satisfied the item conforms with the on-site sewerage code.	4 5 6
(3) The chief executive may give the type specification approval on conditions, including conditions about the way the item must be built, operated, serviced and maintained.	7 8 9
(4) A type specification approval lasts for 5 years or a shorter time decided by the chief executive when giving the approval.	10 11
(5) Within a reasonable time after giving a type specification approval, the chief executive must—	12 13
(a) by gazette notice—	14
(i) notify the giving of the approval; and	15
(ii) advise where a copy of the approval may be examined or obtained; and	16 17
(b) ensure the copy may be examined free of charge and obtained at a reasonable cost at the place stated in the notice.	18 19
(6) If the chief executive gives the type specification approval on conditions or refuses to give a type specification approval, the chief executive must give the person an information notice about the decision.	20 21 22
 95 Misleading statement by builder, manufacturer or supplier	 23
(1) A builder, manufacturer or supplier of a prefabricated or built item must not make a statement to another person that the item has, or might reasonably suggest the item has, a model approval or type specification approval unless the item has a model approval or type specification approval.	24 25 26 27 28
Maximum penalty—100 penalty units.	29
(2) A builder, manufacturer or supplier of a prefabricated item must not make a statement to another person that the manufacture, installation, operation, service or maintenance of the item conforms, or might reasonably suggest the item conforms, with the conditions of a model	30 31 32 33

approval unless the item conforms with the conditions of the model approval.	1 2
Maximum penalty—100 penalty units.	3
(3) A builder, manufacturer or supplier of a built item must not make a statement to another person that the building, operation, service or maintenance of the item conforms, or might reasonably suggest the item conforms, with the conditions of a type specification approval unless the item conforms with the conditions of the type specification approval.	4 5 6 7 8
Maximum penalty—100 penalty units.	9
(4) In this section—	10
“ supplier ”, of an item, includes a distributor or seller of on-site sewage treatment plants.	11 12

Division 4—Role of local governments

96 Approval for on-site sewerage facilities	14
(1) The owner of premises may apply to the local government for an approval to build, install or change an on-site sewerage facility on the premises.	15 16 17
(2) The local government may give the approval only if—	18
(a) the premises can not be served by a sewerage system or the facility is required as part of a common effluent drainage scheme; and	19 20 21
(b) the facility is designed to comply with the codes, standards or design rules mentioned in section 92; and	22 23
(c) it is satisfied there is enough water available to the premises for operating the facility; and	24 25
(d) the facility is suitable in the circumstances, including, for example, that—	26 27
(i) there is enough suitable land available as part of the premises for disposal of effluent from the facility; or	28 29
(ii) there is not enough suitable land available as part of the premises for disposal of effluent from the facility, but a	30 31

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suitable alternative arrangement for the disposal of effluent is available; and	1 2
(e) if the facility includes an on-site sewage treatment plant (other than an on-site sewage treatment plant consisting only of a septic tank)—	3 4 5
(i) to the extent the plant consists of a prefabricated item—the plant conforms with a model approval; or	6 7
(ii) to the extent that the plant consists of a built item—the plant conforms with a type specification approval.	8 9
(3) The approval may be given on conditions (“ on-site facility conditions ”), including conditions—	10 11
(a) about building, installing, operating, servicing or maintaining the facility; or	12 13
<i>Examples of conditions of installation—</i>	14
A condition may require the owner of premises to install a grease arrester and outline its maintenance requirements.	15 16
(b) about effluent disposal; or	17
<i>Examples of conditions of effluent disposal—</i>	18
1. A condition may require the owner of premises to keep an area of land in reserve for the future replacement of a disposal area.	19 20
2. If an on-site sewerage facility includes a sewage treatment plant, a condition may require that the effluent from the plant not be disposed of by spraying or another method that produces aerial mists or sprays.	21 22 23
(c) requiring replacement of a part of the facility within a stated time.	24 25
(4) If the local government gives the approval on conditions or refuses to give the approval, the local government must give the person an information notice about the decision.	26 27 28
97 Notice to build or install on-site sewerage facility or dispose of greywater	29 30
(1) A local government may, by written notice given to the owner of premises, require the owner—	31 32
(a) to build or install an on-site sewerage facility on the premises; or	33

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- (b) if the premises are outside a sewerage service provider’s service area under the *Water Act 2000*—to dispose of sewage (other than human waste) on the premises by a stated system of on-site disposal. 1
2
3
4
- (2) The notice must state— 5
- (a) the time (the “**initial period**”) for completing the work; and 6
- (b) that the work must be completed within the initial period or within any further time the local government may, whether before or after the end of the initial period, decide; and 7
8
9
- (c) that the local government’s approval to the proposed work must be given before work starts; and 10
11
- (d) that the owner may ask the local government to prepare the plans needed for the work; and 12
13
- (e) anything else the owner must do to get the approval mentioned in paragraph (c); and 14
15
- Example for paragraph (e)—* 16
- The notice may require the owner to give the local government a stated number of plans drawn to a stated scale. 17
18
- (f) that the owner may apply for a review of the decision to make the requirement within 20 business days and how to apply for the review. 19
20
21
- (3) The initial period must be— 22
- (a) a time that is reasonable in the circumstances; and 23
- (b) subject to subsection (4), at least 1 month after the notice is given to the owner. 24
25
- (4) The initial period may be less than 1 month but must not be less than 48 hours if the work stated in the notice is required to stop a serious health risk continuing. 26
27
28
- (5) The owner must comply with the notice, unless the owner has a reasonable excuse. 29
30
- Maximum penalty for subsection (5)—165 penalty units. 31

98 Notice to repair on-site sewerage facility

(1) A local government may, by written notice given to the owner of premises, require the owner to perform work that is reasonably necessary for fixing or otherwise dealing with an on-site sewerage facility that is—

- (a) defective; or
- (b) not adequate for dealing with the sewage generated on the premises; or
- (c) in a condition likely to—
 - (i) cause a nuisance; or
 - (ii) be detrimental to public health; or
- (d) being used other than under this Act.

(2) Without limiting subsection (1), the notice may require the owner—

- (a) to repair or replace a defective component; or
- (b) to improve a component's performance or replace a component with another component the performance of which is consistent with a requirement of this Act; or
- (c) to remedy a contravention of this Act.

(3) The notice must state—

- (a) the time (the “**initial period**”) for completing the work; and
- (b) that the work must be completed within the initial period or within any further time the local government may, whether before or after the end of the initial period, decide; and
- (c) that the owner may apply for a review of the decision to make the requirement within 20 business days and how to apply for the review.

(4) The initial period must be—

- (a) a time that is reasonable in the circumstances; and
- (b) subject to subsection (5), at least 1 month after the notice is given to the owner.

(5) The initial period may be less than 1 month but must not be less than 48 hours if the work stated in the notice is required to stop a serious health risk continuing.

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(6) The owner must comply with the notice, unless the owner has a reasonable excuse.	1 2
Maximum penalty for subsection (6)—165 penalty units.	3
99 Notice to remove on-site sewerage facility	4
(1) This section applies if—	5
(a) an owner’s premises are connected to a sewerage service provider’s infrastructure under the <i>Water Act 2000</i> ; or	6 7
(b) a local government receives a notice under section 106.	8
(2) The local government may, by written notice given to the owner, require the owner to—	9 10
(a) dismantle, remove or render safe any part of an on-site sewerage facility; and	11 12
(b) dispose of the contents of the facility.	13
(3) The notice must state—	14
(a) the time (the “ initial period ”) for completing the work; and	15
(b) that the work must be completed within the initial period or within any further time the local government may, whether before or after the end of the initial period, decide; and	16 17 18
(c) for subsection (2)(b), the way in which the contents must be disposed of; and	19 20
(d) that the owner may apply for a review of the decision to make the requirement within 20 business days and how to apply for the review.	21 22 23
(4) The initial period must be—	24
(a) a time that is reasonable in the circumstances; and	25
(b) subject to subsection (5), at least 1 month after the notice is given to the owner.	26 27
(5) The initial period may be less than 1 month but must not be less than 48 hours if the work stated in the notice is required to stop a serious health risk continuing.	28 29 30

(6) The owner must comply with the notice, unless the owner has a reasonable excuse. 1
2

Maximum penalty for subsection (6)—100 penalty units. 3

100 Approval to build or install on-site sewerage facility for testing purposes 4
5

(1) A person may apply to the local government for approval to build or install, for testing purposes, an on-site sewage treatment plant (other than an on-site sewage treatment plant consisting only of a septic tank). 6
7
8

(2) The local government may give the approval only if it is satisfied— 9

(a) the person has applied to the chief executive for a model approval or type specification approval for the plant; and 10
11

(b) the chief executive has approved the use of the plant in the local government’s area for testing purposes; and 12
13

(c) the applicant has agreed in writing to take the plant away at the end of the test if the chief executive does not give a model approval or type specification approval. 14
15
16

(3) The approval may be given on conditions (“**on-site facility conditions**”). 17
18

(4) If the local government gives the approval on conditions or refuses to give an approval, the local government must give the person an information notice about the decision. 19
20
21

(5) If the chief executive refuses to give a model approval or type specification approval for the plant, the applicant must remove the plant as soon as reasonably practicable after the refusal. 22
23
24

Maximum penalty—100 penalty units. 25

<i>Division 5—Responsibilities of owners and others relating to on-site sewerage facilities</i>	1 2
101 Codes and standards for building, installing or operating on-site sewerage facilities	3 4
(1) A person must not build, install or operate an on-site sewerage facility that is not a chemical, composting or incinerating toilet in a way that does not conform with the on-site sewerage code.	5 6 7
Maximum penalty—100 penalty units.	8
(2) To the extent an on-site sewerage facility consists of a septic tank, a person must not build, install or operate the tank in a way that does not conform with AS/NZS 1546.	9 10 11
Maximum penalty—100 penalty units.	12
(3) To the extent an on-site sewerage facility consists of a prefabricated item (other than an on-site sewage treatment plant consisting only of a septic tank), a person must not build, install or operate the facility unless—	13 14 15
(a) at the time the item was installed, it had a current model approval; and	16 17
(b) it is operated as required by the conditions of the approval.	18
Maximum penalty—100 penalty units.	19
(4) To the extent an on-site sewerage facility consists of a built item (other than an on-site sewage treatment plant consisting only of a septic tank), a person must not build, install or operate the facility unless—	20 21 22
(a) at the time the item was built, it had a current type specification approval; and	23 24
(b) it is operated as required by the conditions of the approval.	25
Maximum penalty—100 penalty units.	26
(5) A person must not build, install or operate an on-site sewerage facility that is a chemical, composting or incinerating toilet other than as required by the design rules prescribed under a regulation under the <i>Environmental Protection Act 1994</i> .	27 28 29 30
Maximum penalty—100 penalty units.	31

-
- (6) A person must not build, install or operate an on-site sewerage facility in a way that does not conform with on-site facility conditions applying to the facility. 1
2
3
- Maximum penalty—100 penalty units. 4
- (7) A person must not, without the local government's approval build, install or change an on-site sewerage facility on premises. 5
6
- Maximum penalty—100 penalty units. 7
- (8) A person must not, without the local government's approval dismantle or take away all or part of the facility from the premises. 8
9
- Maximum penalty—100 penalty units. 10
- (9) Subsection (8) does not apply if the action is authorised by a condition of a model approval or type specification approval. 11
12
- (10) A person must install an on-site sewerage facility, to the greatest practicable extent— 13
14
- (a) clear of any building; and 15
 - (b) for a part that is a tank—in a place giving enough access to allow sludge to be removed. 16
17
- Maximum penalty—100 penalty units. 18
- (11) A person must not install a storage tank for sewage or effluent if the tank is not, to the greatest practicable extent, designed, built and tested in the way a septic tank is designed, built and tested under AS/NZS 1546. 19
20
21
- Maximum penalty—100 penalty units. 22
- (12) Subsections (1) to (5) do not apply to the operation of an on-site sewerage facility built or installed before 30 April 1998 unless— 23
24
- (a) an application to change the facility is approved under section 96; or 25
26
 - (b) a notice is given under section 98 for the facility. 27
- 102 Service and maintenance** 28
- (1) The owner of an on-site sewerage facility must— 29
- (a) take all reasonable steps to keep the facility in good working order; and 30
31

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(b) maintain each part of the facility that is a built or prefabricated item as required by the conditions of the model and type specification approval for the item.	1 2 3
Maximum penalty—100 penalty units.	4
(2) If a person (the “ service person ”) services an on-site sewerage facility, the service person must—	5 6
(a) give the local government a report on the condition of the facility within 1 month after servicing the facility; and	7 8
(b) give a copy of the report to the owner of the facility as soon as practicable after servicing the facility.	9 10
Maximum penalty—40 penalty units.	11
(3) The service person must not make a statement to the local government or the facility’s owner about the facility that the service person knows is false or misleading in a material particular.	12 13 14
Maximum penalty—100 penalty units.	15
(4) It is enough for a complaint for an offence under subsection (3) to state the statement made was false or misleading to the service person’s knowledge without specifying which.	16 17 18
103 Disposal of contents of on-site sewerage facility	19
(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.	20 21 22
Maximum penalty—100 penalty units.	23
(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.	24 25 26
Maximum penalty—100 penalty units.	27
(3) Subsections (1) and (2) do not apply to contents or effluent removed for testing.	28 29

104 Stormwater drainage must be separate from on-site sewerage facility	1 2
(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.	3 4
Maximum penalty—165 penalty units.	5
(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.	6 7 8 9 10
Maximum penalty—165 penalty units.	11
105 Permissible and prohibited discharges	12
(1) A person must not discharge waste, other than sewage the facility is designed to receive, into an on-site sewerage facility.	13 14
Maximum penalty—165 penalty units.	15
(2) A person must not discharge a prohibited substance into an on-site sewerage facility.	16 17
Maximum penalty—165 penalty units.	18
106 On-site sewerage facility no longer required	19
If an on-site sewerage facility is no longer required for premises, other than because the premises have been connected to a 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.	20 21 22 23 24
Maximum penalty—40 penalty units.	25

PART 6—INVESTIGATION, ENFORCEMENT AND OFFENCES	1 2
<i>Division 1—Inspectors</i>	3
107 Appointment and qualifications	4
(1) For this Act, a local government may appoint an individual to be an inspector if it is satisfied the individual is qualified for appointment because the individual has the qualifications and experience prescribed under a regulation.	5 6 7 8
(2) A local government must—	9
(a) advise the board of each appointment it makes under subsection (1); and	10 11
(b) within 20 business days after 1 July in each year, give the board a list of its inspectors as at that date.	12 13
108 Appointment conditions and limit on powers	14
(1) An inspector holds office on any conditions stated in—	15
(a) the inspector’s instrument of appointment; or	16
(b) a signed notice given to the inspector; or	17
(c) a regulation.	18
(2) The instrument of appointment, a signed notice given to the inspector or a regulation may limit the inspector’s powers under this Act.	19 20
(3) In this section—	21
“ signed notice ” means a notice signed by the chief executive officer of the local government.	22 23
109 Issue of identity card	24
(1) The local government must issue an identity card to each inspector.	25
(2) The identity card must—	26
(a) contain a recent photo of the inspector; and	27

(b)	contain a copy of the inspector's signature; and	1
(c)	identify the person as an inspector under this Act; and	2
(d)	state an expiry date for the card.	3
(3)	This section does not prevent the issue of a single identity card to a person for this Act and other purposes.	4 5
110	Production or display of identity card	6
(1)	In exercising a power under this Act in relation to a person, an inspector must—	7 8
(a)	produce the inspector's identity card for the person's inspection before exercising the power; or	9 10
(b)	have the identity card displayed so it is clearly visible to the person when exercising the power.	11 12
(2)	However, if it is not practicable to comply with subsection (1), the inspector must produce the identity card for the person's inspection at the first reasonable opportunity.	13 14 15
(3)	For subsection (1), an inspector does not exercise a power in relation to a person only because the inspector has entered a place.	16 17
111	When inspector ceases to hold office	18
(1)	An inspector ceases to hold office if any of the following happens—	19
(a)	the term of office stated in a condition of office ends;	20
(b)	under another condition of office, the inspector ceases to hold office;	21 22
(c)	the inspector's resignation under section 112 takes effect.	23
(2)	Subsection (1) does not limit the ways an inspector may cease to hold office.	24 25
(3)	In this section—	26
“condition of office”	means a condition on which the inspector holds office.	27 28

112 Resignation	1
(1) An inspector may resign by signed notice given to the chief executive officer of the local government.	2 3
(2) However, if holding office as an inspector is a condition of the inspector holding another office, the inspector may not resign as an inspector without resigning from the other office.	4 5 6
113 Return of identity card	7
A person who ceases to be an inspector must return the person's identity card to the local government within 21 days after ceasing to be an inspector unless the person has a reasonable excuse.	8 9 10
Maximum penalty—25 penalty units.	11
114 Functions and powers of inspectors and relationship to the Local Government Act 1993	12 13
(1) An inspector's functions are to conduct investigations and inspections for monitoring and enforcing compliance with—	14 15
(a) this Act; or	16
(b) the <i>Integrated Planning Act 1997</i> ; or	17
(c) the <i>Local Government Act 1993</i> .	18
(2) Subsection (1)(b) and (c) apply, to the extent possible for the Acts mentioned in subsection (1)(b) and (c), for plumbing or drainage on premises.	19 20 21
(3) For performing an inspector's functions, the inspector—	22
(a) has the powers of an authorised person under the <i>Local Government Act 1993</i> , section 1084 ¹⁰ and a reference in chapter 15, part 5 of that Act to an authorised person is, for this Act, taken to be a reference to an inspector under this Act; and	23 24 25 26
(b) may give a notice requiring work regulated under the Acts mentioned in subsection (1) to be performed.	27 28

10 *Local Government Act 1993*, section 1084 (Appointment)

<i>Division 2—Enforcement</i>		1
115 Show cause notices		2
(1) Before a local government gives a person an enforcement notice under section 116(1)(b) or (c) or (2), the local government must give the person written notice (a “ show cause notice ”) inviting the person to show cause why an enforcement notice should not be given to the person.		3 4 5 6
(2) The show cause notice must—		7
(a) outline the facts and circumstances forming the basis for the belief that an enforcement notice should be given to the person; and		8 9 10
(b) state that representations may be made about the show cause notice; and		11 12
(c) state how the representations may be made; and		13
(d) state where the representations may be made or sent; and		14
(e) state—		15
(i) a day and time for making the representations; or		16
(ii) a period within which the representations must be made.		17
(3) The day or period stated in the notice must be, or must end, at least 20 business days after the notice is given.		18 19
116 Enforcement notices for plumbing and drainage		20
(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 plumbing or drainage on the premises—		21 22 23
(a) 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		24 25
(b) is defective and should be altered, repaired or replaced; or		26
(c) for plumbing and drainage installed on the premises—was installed without, or not in accordance with, the approval of the local government.		27 28 29
(2) A local government may give written notice to a person who has performed plumbing or drainage work requiring the person to do a stated		30 31

thing if the local government reasonably believes the work does not comply with this Act.	1 2
(3) Without limiting specific requirements, a notice under subsection (1) or (2) may require the owner or person to do any of the following—	3 4
(a) request compliance assessment;	5
(b) do, or not do, a stated thing to ensure plumbing or drainage work complies with the approval of the local government;	6 7
(c) alter, repair or replace plumbing or drainage.	8
117 Enforcement notices for backflow prevention devices	9
(1) Subsection (2) applies if a local government reasonably believes pollution of the water supply in premises or the water service provider's water service to premises has been, or could be, caused by the plumbing on the premises.	10 11 12 13
(2) The local government may give written notice to the owner or occupier of the premises to do any of the following—	14 15
(a) install a backflow prevention device;	16
(b) register a backflow prevention device that is required to be registered under the Standard Plumbing and Drainage Regulation;	17 18 19
(c) have a backflow prevention device inspected, tested and if necessary repaired or replaced by a licensee licenced to do the work.	20 21 22
(3) Subsection (2) does not limit specific requirements of a notice given under the subsection.	23 24
118 Relationship with Integrated Planning Act 1997	25
(1) An enforcement notice given under this Act is taken to be an enforcement notice given under the <i>Integrated Planning Act 1997</i> . ¹¹	26 27
(2) If the notice is given under section 116(1)(a), the appeal must be started within 5 business days after the day the notice is given.	28 29

11 See *Integrated Planning Act 1997*, section 4.3.15 (Compliance with enforcement notice).

(3) Subsection (2) applies despite the *Integrated Planning Act 1997*, section 4.2.13(2).¹² 1
2

Division 3—Offences about licences 3

119 Offences by persons not holding appropriate licence 4

(1) 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. 5
6
7

Maximum penalty—165 penalty units. 8

(2) However, a person does not commit an offence against subsection (1) if— 9
10

(a) the person carries out work consisting merely of the excavation or backfilling of trenches or any other work of an unskilled nature; or 11
12
13

(b) the person is an apprentice, as defined under the *Training and Employment Act 2000*, who performs plumbing or drainage work under the direct supervision of a person holding a licence that entitles the licence holder to perform the work; or 14
15
16
17

(c) the person performs drainage work under the direct supervision of a person holding a drainers licence. 18
19

120 Contravening licence conditions 20

The holder of a licence must not contravene a condition of the licence. 21

Maximum penalty—100 penalty units. 22

121 Limitations on provisional licence holders 23

(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. 24
25
26

Maximum penalty—100 penalty units. 27

12 See *Integrated Planning Act 1997*, section 4.2.13 (Appeals against enforcement notices).

(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.	1 2 3
Maximum penalty—100 penalty units.	4
122 Restriction on advertising as a licence holder	5
A person must not advertise that the person is available to carry out plumbing or drainage work unless the person is the holder of a licence under this Act that entitles the person to carry out the work.	6 7 8
Maximum penalty—100 penalty units.	9
<i>Division 4—Offences about plumbing and drainage</i>	10
123 Owner’s duty to maintain plumbing and drainage	11
The owner of premises must take all reasonable steps to make sure that all plumbing and drainage on the premises is kept in good condition and operates properly.	12 13 14
Maximum penalty—165 penalty units.	15
124 Offence to pollute service provider’s services	16
(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 <i>Water Act 2000</i> .	17 18 19
Maximum penalty—165 penalty units.	20
(2) In carrying out drainage work, a person must not do anything likely to pollute a sewerage service provider’s sewerage service as defined under the <i>Water Act 2000</i> .	21 22 23
Maximum penalty—165 penalty units.	24
125 Offence to remove or tamper with backflow prevention device	25
A person must not—	26
(a) remove a backflow prevention device installed on premises; or	27

(b) do anything to a backflow prevention device installed on premises that renders it inoperable.	1 2
Maximum penalty—165 penalty units.	3
126 Offence to remove or tamper with a hot water control devices	4
(1) A person must not—	5
(a) remove a hot water control device installed on premises; or	6
(b) do anything to a hot water control device installed on premises that renders it inoperable.	7 8
Maximum penalty—165 penalty units.	9
(2) In this section—	10
“ hot water control device ” means—	11
(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	12 13 14
(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	15 16 17
(c) any other device installed to deliver hot water at a lower temperature at 1 or more outlet fixtures.	18 19
 <i>Division 5—Other offences</i>	 20
127 Obstruction of inspectors	21
(1) A person must not, without reasonable excuse, obstruct an inspector exercising a power under this Act.	22 23
Maximum penalty—40 penalty units.	24
(2) In this section—	25
“ obstruct ” includes hinder, resist and attempt to obstruct.	26

128 Impersonation of inspector	1
A person must not pretend to be an inspector.	2
Maximum penalty—40 penalty units.	3
PART 7—REVIEWS	4
<i>Division 1—Reviews about plumbing and drainage licences</i>	5
129 Applying for a review	6
(1) This section applies if an applicant or licensee is given, or is entitled to be given, an information notice for a decision under part 3 (the “ original decision ”) and the applicant or licensee—	7 8 9
(a) is dissatisfied with the decision; or	10
(b) was not given an information notice about the decision.	11
(2) The applicant or licensee may apply for a review of the decision as if it were a reviewable decision under the <i>Queensland Building Tribunal Act 2000</i> .	12 13 14
(3) The application must be made within 28 days after—	15
(a) if the applicant or licensee is given an information notice about the original decision—the day the applicant or licensee is given the notice; or	16 17 18
(b) if paragraph (a) does not apply—the day the applicant or licensee becomes aware of the original decision.	19 20
130 Review of decision	21
The decision may be reviewed as if it were a reviewable decision under the <i>Queensland Building Tribunal Act 2000</i> .	22 23
131 Powers of Queensland Building Tribunal when reviewing	24
(1) The Queensland Building Tribunal may, in reviewing the decision—	25

(a) confirm the original decision; or	1
(b) amend the original decision; or	2
(c) substitute another decision for the original decision; or	3
(d) set aside the original decision and return the matter to the board with the directions the tribunal considers appropriate.	4 5
(2) In substituting another decision for the original decision, the tribunal has the same powers as the board in making the original decision.	6 7
<i>Example—</i>	8
The tribunal may decide that an unsuccessful applicant for a licence be licensed either unconditionally or on particular conditions.	9 10
(3) If the tribunal amends the original decision or substitutes another decision for the original decision, the amended or substituted decision is, for this Act (other than this division) taken to be the decision of the board.	11 12 13
(4) If the tribunal decides to impose conditions on a licence, the tribunal must—	14 15
(a) state the reasons for the decision; and	16
(b) decide and state the review period applying to the conditions.	17
 <i>Division 2—Reviews about on-site sewerage facilities</i>	 18
132 Applying for a review	19
(1) This section applies if a person (the “ applicant ”) is given, or is entitled to be given—	20 21
(a) an information notice about a decision under part 5 (the “ original decision ”); or	22 23
(b) a notice by a local government about a decision to make a requirement under part 5 (also the “ original decision ”).	24 25
(2) The applicant may apply to the decision maker (the “ reviewer ”) for a review of the decision.	26 27
(3) The application must be made within 20 business days after—	28
(a) if the applicant is given a notice for the original decision—the day the applicant is given the notice; or	29 30

-
- (b) if paragraph (a) does not apply—the day the applicant becomes aware of the original decision. 1
2
- (4) The reviewer may extend the time for applying for a review. 3
- (5) The application does not stay the original decision. 4
- (6) The application must not be dealt with by— 5
- (a) the person who made the original decision; or 6
- (b) a person in a less senior office than the person who made the original decision. 7
8
- (7) Subsection (6)— 9
- (a) applies despite the *Acts Interpretation Act 1954*, section 27A; and 10
11
- (b) does not apply to an original decision made by the chief executive. 12
13
- (8) The application must be supported by enough information to enable the reviewer to decide the application. 14
15
- 133 Review decision** 16
- (1) Subsection (2) applies if the reviewer is satisfied the applicant has complied with section 132. 17
18
- (2) The reviewer must, within 20 business days after receiving the application— 19
20
- (a) review the original decision; and 21
- (b) make a decision (the “**review decision**”) to— 22
- (i) confirm the original decision; or 23
- (ii) amend the original decision; or 24
- (iii) substitute another decision for the original decision. 25
- (3) Within 10 business days after making the review decision, the reviewer must give the applicant notice (the “**review notice**”) of the review decision. 26
27
28
- (4) If the review decision is not the decision sought by the applicant, the review notice must also state— 29
30
- (a) the reasons for the review decision; and 31

-
- (b) that the applicant may appeal against the review decision to a building and development tribunal within 20 business days; and
- (c) how to appeal.¹³
- (5) If the reviewer does not comply with subsection (2) or (3), the reviewer is taken to have made a decision confirming the original decision.

PART 8—LEGAL PROCEEDINGS

Division 1—Evidence

134 Application of div 1

This division applies to a proceeding under this Act.

135 Appointments and authority

It is not necessary to prove—

- (a) the appointment of the chief executive, a member, an inspector or the secretary; or
- (b) the authority of the chief executive, a member, an inspector or the secretary to do anything under this Act.

136 Signatures

A signature purporting to be the signature of the Minister, the chief executive, a member, an inspector or the secretary is evidence of the signature it purports to be.

¹³ For appeals against the decision, see the *Integrated Planning Act 1997*, section 4.2.12A (Appeals for plumbing and drainage matters).

137 Evidentiary provisions

A certificate purporting to be signed by the chief executive, chairperson or secretary and stating any of the following matters is evidence of the matter—

- (a) a stated document is 1 of the following things made, given, issued or kept under this Act—
 - (i) an appointment, approval or decision;
 - (ii) a direction, notice or requirement;
 - (iii) a licence;
 - (iv) a record;
 - (v) the register;
- (b) a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a);
- (c) on a stated day, or during a stated period, a person's appointment as an inspector was, or was not, in force;
- (d) on a stated day, or during a stated period, a licence—
 - (i) was or was not in force; or
 - (ii) was or was not subject to a stated condition;
- (e) on a stated day, a licence was suspended or cancelled;
- (f) on a stated day, a stated person was given a stated notice or direction under this Act;
- (g) on a stated day, a stated requirement was made of a stated person.

Division 2—Offence proceedings**138 Offences under Act are summary**

- (1) An offence against this Act is a summary offence.
- (2) A proceeding for the offence must start within the later of the following periods to end—
 - (a) 1 year after the commission of the offence;

(b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.	1 2 3
139 Statement of complainant's knowledge	4
In a complaint starting a proceeding for an offence against this Act, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence of the matter stated.	5 6 7
140 Conduct of representatives	8
(1) This section applies to a proceeding for an offence against this Act if it is relevant to prove a person's state of mind about particular conduct.	9 10
(2) It is enough to show—	11
(a) the conduct was engaged in by a representative of the person within the scope of the representative's actual or apparent authority; and	12 13 14
(b) the representative had the state of mind.	15
(3) Conduct engaged in for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been engaged in also by the person unless the person proves—	16 17 18 19
(a) if the person was in a position to influence the representative in relation to the conduct—the person took reasonable steps to prevent the conduct; or	20 21 22
(b) the person was not in a position to influence the representative in relation to the conduct.	23 24
(4) In this section—	25
"engaging" in conduct includes failing to engage in conduct.	26
"representative" means—	27
(a) for a corporation—an agent, employee or executive officer of the corporation; or	28 29
(b) for an individual—an agent or employee of the individual.	30
"state of mind" of a person includes the person's—	31

-
- (a) belief, intention, knowledge, opinion or purpose; and 1
 - (b) reasons for the belief, intention, opinion or purpose. 2

PART 9—MISCELLANEOUS PROVISIONS 3

141 Approval of forms 4

The chief executive may approve forms for use under this Act. 5

142 Maintenance of existing combined sanitary drains 6

(1) This section applies if— 7

- (a) 2 or more premises in a local government’s sewered area are 8
served by an existing combined sanitary drain; and 9
- (b) the drain is obstructed, in disrepair or damaged because of 10
defective materials, breakages or tree root intrusion; and 11
- (c) the owners of the premises can not agree on suitable and fair 12
arrangements for removing the obstruction or repairing or 13
rebuilding the drain. 14

(2) However, this section does not apply to a sanitary drain if the 15
premises the sanitary drain serves are included in a community titles 16
scheme under the *Body Corporate and Community Management Act 1997* 17
or form part of a building unit plan or group title plan under the *Building* 18
Units and Group Titles Act 1980. 19

(3) The local government may— 20

- (a) perform the work; and 21
- (b) fairly apportion the reasonable overall cost among the owners; 22
and 23
- (c) recover from each owner, the owner’s share of the costs. 24

143 Local government’s obligation to keep particular records	1
(1) A local government must keep a copy of the plan and any other relevant document relating to each compliance permit until the premises to which the plan relates are demolished or removed. ¹⁴	2 3 4
(2) A local government must keep a copy of each compliance certificate and any plan of assessed work until the premises to which the certificate relates are demolished or removed. ¹⁵	5 6 7
144 Chief executive may publish information	8
The chief executive may publish, in a way the chief executive considers appropriate, including, for example, by the Internet, information about—	9 10
(a) plumbing and drainage; or	11
<i>Example for paragraph (a)—</i>	12
A resolution mentioned in section 83.	13
(b) licensed plumbers and drainers.	14
145 Regulation-making power	15
(1) The Governor in Council may make regulations under this Act.	16
(2) A regulation (the “ Standard Plumbing and Drainage Regulation ”) may be made about plumbing and drainage work and the inspection of the work.	17 18 19
(3) A regulation under subsection (1) or (2) may—	20
(a) state the practical experience and qualifications for persons to be the holders of licences; or	21 22
(b) fix the fees payable under this Act and the way, time, place, and the person by and to whom the fees must be paid; or	23 24
(c) may provide for a maximum penalty of not more than 20 penalty units for a contravention of a regulation.	25 26

14 See section 85 (Process for assessing plans).

15 See section 86 (Process for assessing regulated work).

146 References to repealed Act, by-laws and laws	1
(1) This section applies to a reference in an Act or document, immediately before the commencement of this section, to—	2 3
(a) the repealed Act; or	4
(b) the <i>Sewerage, Water Supply, and Gasfitting Act 1949</i> ; or	5
(c) the <i>Standard Sewerage By-laws 1981</i> ; or	6
(d) the Standard Sewerage By-laws (however described); or	7
(e) the Standard Sewerage Law; or	8
(f) the <i>Standard Water Supply By-laws 1949</i> ; or	9
(g) Standard Water Supply By-laws (however described); or	10
(h) the Standard Water Supply Law.	11
(2) On and from the commencement, the reference may, if the context permits, be taken to be a reference to this Act or the Standard Plumbing and Drainage Regulation.	12 13 14

PART 10—REPEAL AND TRANSITIONAL PROVISIONS 15

Division 1—Repeal 16

147 Act repealed 17

The *Sewerage and Water Supply Act 1949* is repealed. 18

Division 2—Transitional provisions about members, inspectors and licensing 19 20

148 Board members under the repealed Act continue in office 21

A person who, immediately before the commencement of this section, was a member of the board under the repealed Act is a member of the board under this Act until the earlier of the following— 22
23
24

(a) 1 November 2003;	1
(b) the members of a new board are appointed under this Act.	2
149 Inspectors under the repealed Act continue in office	3
A person who, immediately before the commencement of this section,	4
was an inspector under the repealed Act is taken to be an inspector under	5
this Act.	6
150 Licence applications continue under repealed Act	7
(1) Subsection (2) applies if—	8
(a) an application was made under the repealed Act for a licence;	9
and	10
(b) the application had not been decided before the commencement	11
of this section.	12
(2) The application must be decided as if the repealed Act had not been	13
repealed.	14
(3) Section 151 applies to a licence issued because of a decision under	15
subsection (2) as if the licence were a licence in force immediately before	16
the commencement.	17
151 Licences issued under the repealed Act continue	18
(1) Subsection (2) applies if a licence issued under the repealed Act is in	19
force immediately before the commencement of this section.	20
(2) The licence—	21
(a) if it was a plumber’s licence—is taken to be a plumber’s licence	22
under this Act; or	23
(b) if it was a country plumber’s licence—is taken to be a plumber’s	24
licence under this Act that is subject to the limitations stated in	25
section 19(3) of the repealed Act; or	26
(c) if it was a water plumber’s licence—is taken to be a plumber’s	27
licence under this Act that is subject to the limitations stated in	28
section 19(4) of the repealed Act; or	29
(d) if it was a drainer’s licence—is taken to be a drainer’s licence	30
under this Act; or	31

(e)	if it was a restricted plumber's licence or a restricted drainer's licence—is taken to be a restricted licence under this Act that is subject to the limitations stated in section 20 of the repealed Act; or	1 2 3 4
(f)	if it was an interim licence—is taken to be a provisional licence under this Act that is subject to the limitations stated in section 18 of the repealed Act.	5 6 7
<i>Division 3—Transitional provisions about plumbing and drainage work</i>		8
152	Applications for approval to carry out plumbing or drainage work continue under repealed Act	9 10
(1)	Subsection (2) applies if—	11
(a)	an application was made under the repealed Act for approval to carry out plumbing or drainage work; and	12 13
(b)	the application had not been decided by the commencement of this section.	14 15
(2)	The application must be decided as if the repealed Act had not been repealed.	16 17
(3)	Section 153 applies to an approval given because of a decision under subsection (2) as if the approval were an approval in force immediately before the commencement.	18 19 20
153	Approvals for works issued under the repealed Act continue	21
	An approval given under the repealed Act to carry out plumbing or drainage work and in force immediately before the commencement of this section is taken to be a compliance permit given under part 4.	22 23 24
154	Plumbing or drainage work lawfully carried out under the repealed Act continues to be lawful	25 26
	Plumbing or drainage work lawfully carried out under the repealed Act is taken to have been lawfully carried out under this Act.	27 28

155 Notices issued under the repealed Act continue under the repealed Act	1 2
A notice given under the repealed Act to perform plumbing or drainage work and in force immediately before the commencement of this section must be dealt with as if the repealed Act had not been repealed.	3 4 5
 <i>Division 4—Transitional provisions about on-site sewerage facilities</i>	 6
156 Existing applications continue	7
(1) An application made under the repealed Act and not decided before the commencement of this section is taken to be an application made under this Act.	8 9 10
(2) In this section—	11
“ application ” includes anything that is, or that has effect as, or is the equivalent of an application for—	12 13
(a) an approval for building, changing, dismantling, installing or taking away all or part of an on-site sewerage facility; or	14 15
(b) an approval for installing an on-site sewage treatment plant for an on-site sewerage facility; or	16 17
(c) a model approval; or	18
(d) a type specification approval; or	19
(e) an approval for the disposal of the contents of an on-site sewerage facility.	20 21
 157 Existing approvals continue	 22
(1) An approval under the repealed Act, in force immediately before the commencement of this section, continues in force to the greatest practicable extent as an approval under this Act, until the approval would have expired under the repealed Act.	23 24 25 26
(2) In this section—	27
“ approval ” includes anything that is, or that has effect as, or is the equivalent of—	28 29
(a) an approval for building, changing, dismantling, installing or taking away all or part of an on-site sewerage facility; or	30 31

(b) an approval for installing an on-site sewage treatment plant for an on-site sewerage facility; or	1 2
(c) model approval; or	3
(d) type specification approval; or	4
(e) an approval for the disposal of the contents of an on-site sewerage facility.	5 6
158 Notices issued under the repealed Act continue under this Act	7
(1) A notice given under the repealed Act to build, change, dismantle, install, repair or take away all or part of an on-site sewerage facility and not complied with before the commencement of this section is taken to be a notice given under this Act for the same purpose.	8 9 10 11
(2) However, for an offence of not complying with the notice, the penalty is the penalty that applied for the offence under the repealed Act.	12 13
<i>Division 5—Miscellaneous transitional provisions</i>	
159 Transitional regulation-making power	14 15
(1) A regulation (a “ transitional regulation ”) may make provision about a matter for which—	16 17
(a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of the repealed Act to the operation of this Act; and	18 19 20
(b) this Act does not make provision or sufficient provision.	21
(2) A transitional regulation may have retrospective operation to a day not earlier than the commencement of this section.	22 23
(3) A transitional regulation must declare it is a transitional regulation.	24
(4) This section and any transitional regulation expire 1 year after the commencement.	25 26

PART 11—AMENDMENT OF BUILDING ACT 1975
160 Act amended in pt 11

This part amends the *Building Act 1975*.

161 Amendment of s 3 (Definitions)

(1) Section 3(1), definitions “**accrediting auditor**”, “**accrediting body**”, “**building certifier**”, “**complaint**”, “**disciplinary finding**”, “**professional misconduct**” and “**show cause notice**”—

omit.

(2) Section 3(1)—

insert—

‘ “**accreditation standards body**” means an entity authorised under a regulation made under section 28 to be an accreditation standards body.

“**assessable development**” see the *Integrated Planning Act 1997*, schedule 10.¹⁶

“**auditor**” see section 36(1).

“**BSA**” means the Queensland Building Services Authority established under the *Queensland Building Services Authority Act 1991*.

“**building certifier**”—

(a) means an individual licensed as a building certifier by BSA; and

(b) in part 5A—includes a former building certifier.

“**building certifying function**” means any of the following functions—

(a) assessing and deciding under section 31¹⁷ development applications for building work;

(b) inspecting or accepting certification on the building or demolishing of buildings and structures for compliance with this Act;

16 *Integrated Planning Act 1997*, schedule 10 (Dictionary)

17 Section 31 (Jurisdiction of building certifiers)

(c) issuing, for buildings, certificates of classification or statements of classification;	1 2
(d) taking enforcement action in relation to development approvals issued by a building certifier.	3 4
“building tribunal” means the Queensland Building Tribunal established under the Tribunal Act.	5 6
“code of conduct” see section 32.	7
“complaint” means a complaint made under part 5 about a building certifier or former building certifier.	8 9
“development application” see the <i>Integrated Planning Act 1997</i> , schedule 10.	10 11
“development approval” see the <i>Integrated Planning Act 1997</i> , schedule 10.	12 13
“development permit” see the <i>Integrated Planning Act 1997</i> , section 3.1.5(3). ¹⁸	14 15
“former building certifier” means a person who—	16
(a) was a building certifier when a building certifying function, the subject of a complaint, was performed; but	17 18
(b) is not licensed when—	19
(i) the complaint, or the decision taken about the complaint under section 40(1), is made; or	20 21
(ii) the building tribunal makes an order under section 45A.	22
“local planning instrument” see the <i>Integrated Planning Act 1997</i> , schedule 10. ¹⁹	23 24
“national accreditation framework” means the framework, as amended from time to time, approved by the entity known as the Australian Building Codes Board.	25 26 27
“professional misconduct” , for a building certifier or former building certifier, includes the following—	28 29
(a) conduct that—	30

18 *Integrated Planning Act 1997*, section 3.1.5 (Approvals under this Act)

19 *Integrated Planning Act 1997*, schedule 10 (Dictionary)

Plumbing and Drainage Bill 2002

(i) shows incompetence, or a lack of adequate knowledge, skill, judgment, integrity, diligence or care in performing building certifying functions; and	1 2 3
(ii) compromises the health or safety of a person or the amenity of a person’s property or significantly conflicts with a local planning scheme; and	4 5 6
<i>Example of ‘significantly conflicts with a local planning scheme’—</i>	7
The approved building work compromises the outcomes sought by the planning scheme.	8 9
(iii) is contrary to a function under this Act or another Act regulating building certifiers (including private certifiers for building work), including, for example—	10 11 12
(A) disregarding relevant and appropriate matters; and	13
(B) acting outside the scope of the building certifier’s powers; and	14 15
(C) acting beyond the scope of the building certifier’s competence; and	16 17
(D) contravening the code of conduct; and	18
(E) falsely claiming the building certifier has the qualifications, necessary experience or licence to be engaged as a building certifier;	19 20 21
(b) seeking, accepting or agreeing to accept a benefit, whether for the benefit of the building certifier or another person, as a reward or inducement to act in contravention of—	22 23 24
(i) this Act; or	25
(ii) another Act regulating building certifiers, including private certifiers for building work;	26 27
(c) failing to comply with an order of the BSA or the building tribunal;	28 29
(d) fraudulent or dishonest behaviour in performing building certifying functions;	30 31
(e) other improper or unethical conduct;	32
(f) repeated unsatisfactory conduct.	33
“register” means the register of building certifiers required to be kept under section 29(i).	34 35

“self-assessable development” means all development declared under a local planning instrument to be self-assessable development.	1 2
“show cause notice”—	3
(a) for part 4—see section 21(1); and	4
(b) for part 5A—see section 41A(1).	5
“show cause period” see section 41A(2)(c).	6
“Tribunal Act” means the <i>Queensland Building Tribunal Act 2000</i> .	7
“unsatisfactory conduct”, for a building certifier or former building certifier, includes the following—	8 9
(a) conduct that shows incompetence, or a lack of adequate knowledge, skill, judgment, integrity, diligence or care in performing building certifying functions;	10 11 12
(b) conduct that is contrary to a function under this Act or another Act regulating building certifiers (including private certifiers for building work), including, for example—	13 14 15
(i) disregarding relevant and appropriate matters; and	16
(ii) acting outside the scope of the building certifier’s powers; and	17 18
(iii) acting beyond the scope of the building certifier’s competence; and	19 20
(iv) contravening the code of conduct;	21
(c) conduct that is of a lesser standard than the standard that might reasonably be expected of the building certifier by the public or the building certifier’s professional peers.’.	22 23 24
162 Amendment of s 4 (Standard Building Regulation)	25
Section 4(1)(b), ‘accrediting’—	26
omit, insert—	27
‘licensing’.	28
163 Amendment of s 10 (How changes to Standard Building Regulation may affect certain building work to be carried out)	29 30
Section 10(3), ‘the Building Code of Australia.’—	31

<i>omit, insert—</i>	1
‘a document adopted by, or to which a reference is made in, the Standard Building Regulation.’.	2 3
164 Amendment of s 12A (Definitions for pt 2A)	4
Section 12A, definitions “development application” and “development approval”—	5 6
<i>omit.</i>	7
165 Amendment of s 13 (Local law for fencing of swimming pools)	8
Section 13(3)—	9
<i>omit, insert—</i>	10
‘(3) A local law is of no effect if the local law allows the construction of fencing around outdoor swimming pools on residential land to a standard less effective than the standard required by section 14.	11 12 13
166 Amendment of s 14 (Outdoor swimming pools must be fenced)	14
(1) Section 14(2)—	15
<i>omit, insert—</i>	16
‘(2) Before a person fills the pool with water to a depth of 300 mm or more, the person must ensure—	17 18
(a) fencing that complies with the design, construction and performance standards (the “standards”) prescribed under a regulation is constructed around the pool; and	19 20 21
(b) a building certifier has, after inspecting the pool and fencing, issued the owner of the land with a certificate in the approved form stating the pool and fencing comply with the requirements for pools and fencing prescribed under a regulation.	22 23 24 25
Maximum penalty—165 penalty units.’.	26
(2) Section 14(3)(b) and (4), ‘applying at the time of construction’—	27
<i>omit.</i>	28

167 Replacement of pt 5 hdg	1
Part 5, heading—	2
<i>omit, insert—</i>	3
‘PART 5—ACCREDITATION AND PROVISIONS ABOUT BUILDING CERTIFIERS’.	4
	5
168 Replacement of s 28 (Authorisation of accrediting bodies)	6
Section 28—	7
<i>omit, insert—</i>	8
‘28 Authorisation of accreditation standards body	9
‘(1) A regulation may authorise an entity to be an accreditation standards body.	10
	11
‘(2) An entity must not be authorised as an accreditation standards body unless the body has identifiable competence and expertise in issuing accreditation to building certifiers.	12
	13
	14
‘(3) More than 1 entity may be authorised as an accreditation standards body.’.	15
	16
169 Insertion of new s 28A	17
After section 28—	18
<i>insert—</i>	19
‘28A Function of accreditation standards body	20
‘(1) The function of an accreditation standards body is to issue accreditation to individuals proposing to apply to be building certifiers.	21
	22
‘(2) For subsection (1), an accreditation standards body must—	23
(a) set educational and experiential standards for each level of licensing as a building certifier; and	24
	25
(b) ensure the standards comply with the national accreditation framework for building certifiers; and	26
	27
(c) establish a professional development scheme approved by the chief executive.’.	28
	29

170 Insertion of new pt 5, div 1A, hdg	1
Before section 29—	2
<i>insert—</i>	3
‘ <i>Division 1A—Functions of BSA and licensing of building certifiers</i> ’.	4
171 Replacement of s 29 (Function of accrediting bodies)	5
Section 29—	6
<i>omit, insert—</i>	7
‘29 Function of BSA	8
‘The functions of BSA under this Act are as follows—	9
(a) to license individuals as building certifiers;	10
(b) to endorse building certifiers’ licences to issue development permits for building work if the building certifiers have the competencies prescribed under a regulation;	11 12 13
(c) to monitor compliance by building certifiers with licensing requirements;	14 15
(d) to carry out audits of work by building certifiers;	16
(e) to investigate written complaints made to BSA about alleged noncompliance by building certifiers or former building certifiers with the code of conduct or this or another Act;	17 18 19
(f) to take disciplinary action against building certifiers or former building certifiers for unsatisfactory conduct or professional misconduct;	20 21 22
(g) to give the chief executive and each local government, at least once each year, a list of building certifiers and a summary of disciplinary action taken against building certifiers;	23 24 25
(h) to keep a register of building certifiers;	26
(i) to keep available for purchase by any person, on payment of a reasonable fee, a list of building certifiers.’.	27 28
172 Insertion of new s 29A	29
After section 29—	30

<i>insert—</i>	1
‘29A Application for licence	2
‘(1) An individual may apply to BSA to be licensed as a building certifier.	3 4
‘(2) The application must be made in the way prescribed under a regulation.’.	5 6
173 Replacement of s 30 (Persons must not perform or exercise building certifying functions without accreditation)	7 8
Section 30—	9
<i>omit, insert—</i>	10
‘30 Person must not perform building certifying functions without licence	11 12
‘(1) A person must not perform a building certifying function unless the person is a building certifier.	13 14
Maximum penalty—165 penalty units.	15
‘(2) Subsection (1) does not apply to a corporation or local government if the function is performed on behalf of the corporation or local government by a building certifier employed by the corporation or local government to perform the function.	16 17 18 19
‘30A Restrictions on building certifier without endorsement	20
‘(1) A building certifier must not issue a development permit for building work, unless the building certifier’s licence is endorsed by BSA to issue development permits for building work.	21 22 23
Maximum penalty—165 penalty units.	24
‘(2) If a building certifier’s licence is not endorsed by BSA to issue development permits for building work, the building certifier may certify in the approved form that the proposed building work complies with the Standard Building Regulation.	25 26 27 28
‘(3) An assessment manager or building certifier may, in good faith and without checking, rely on the certification.	29 30

‘30B Keeping register	1
‘(1) The register may be kept in the way BSA considers appropriate, including, for example, in an electronic form.	2 3
‘(2) The register must contain the following particulars for each building certifier—	4 5
(a) the building certifier’s name and contact details;	6
(b) details of the building certifier’s eligibility for licensing as a building certifier;	7 8
(c) if the BSA makes a decision about the building certifier under section 40(1) or (4)—details of the decision;	9 10
(d) if the building tribunal makes an order about the building certifier—details of the order, other than any details identified in the order as details not to be included in the register;	11 12 13
(e) other particulars prescribed under a regulation.	14
 ‘30C Inspection of register	 15
‘(1) BSA must—	16
(a) keep the register open for inspection, free of charge, at BSA’s office by any person during BSA’s office hours; and	17 18
(b) give a person a copy of the register, or a part of it, on payment of the fee prescribed under a regulation.	19 20
‘(2) Also, BSA may make the register available for inspection on its website.’.	21 22
 174 Amendment of s 31 (Jurisdiction of building certifiers)	 23
Section 31(5), ‘accreditation’—	24
<i>omit, insert</i> —	25
‘licence’.	26
 175 Replacement of pt 5, div 3	 27
Part 5, division 3—	28
<i>omit, insert</i> —	29

<i>‘Division 3—Code of conduct for building certifiers</i>	1
‘32 Making code of conduct	2
‘(1) The chief executive must make a code of conduct with which building certifiers must comply and by which the performance of building certifiers may be measured. ²⁰	3 4 5
‘(2) The code of conduct must be approved by a regulation.	6
‘(3) The code of conduct is a statutory instrument within the meaning of the <i>Statutory Instruments Act 1992</i> .	7 8
‘32A Tabling of code	9
‘If, under section 32, a code of conduct is approved by a regulation, the Minister must table a copy of the code with the regulation in the Legislative Assembly.	10 11 12
‘32B Notice of approval of code	13
‘The chief executive must notify building certifiers of the approval of the code of conduct.’	14 15
176 Replacement of pt 5, div 4 hdg	16
Part 5, division 4, heading—	17
<i>omit, insert—</i>	18
‘PART 5A—COMPLAINTS, INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS RELATING TO BUILDING CERTIFIERS	19 20 21
<i>‘Division 1—Complaints’.</i>	22

20 Copies of the code of conduct are available for inspection during office hours at the department’s head office at 41 George Street, Brisbane. A copy of the code is also available for inspection on the department’s website at www.dlgp.qld.gov.au.

177 Amendment of s 33 (Making a complaint against a building certifier)	1
	2
(1) Section 33(1)—	3
<i>omit, insert—</i>	4
‘ (1) A person may make a complaint to BSA about a building certifier if the person believes the building certifier has engaged in unsatisfactory conduct or professional misconduct.’	5
	6
	7
(2) Section 33(3), ‘The accrediting body’—	8
<i>omit, insert—</i>	9
‘BSA’.	10
(3) Section 33(4)—	11
<i>omit, insert—</i>	12
‘ (4) BSA may dismiss any complaint without taking further action under this division if the further particulars are not given or if the complaint or the further particulars are not verified by statutory declaration.	13
	14
	15
‘ (5) BSA must not disclose to another person unproved complaints against a building certifier.’	16
	17
178 Amendment of s 34 (Building certifier must be advised of complaint)	18
	19
(1) Section 34(1), ‘the accrediting body’—	20
<i>omit, insert—</i>	21
‘BSA’.	22
(2) Section 34(3)—	23
<i>omit, insert—</i>	24
‘ (3) If BSA makes a decision about the complaint under section 40, BSA must have regard to the representations when making the decision.’	25
	26
179 Insertion of new ss 34A and 34B	27
After section 34—	28
<i>insert—</i>	29

‘34A BSA may recommend mediation to resolve complaint

‘(1) If BSA considers a complaint about a building certifier is capable of resolution by mediation, BSA must give the complainant and the building certifier a written notice stating—

- (a) that BSA considers the complaint is capable of resolution by mediation; and
- (b) attendance at, and participation in, mediation is voluntary; and
- (c) that either party may withdraw from the mediation at any time; and
- (d) when the mediation ends; and
- (e) the effect of giving BSA a certificate about the mediation.

‘(2) BSA may recommend the complainant and the building certifier enter into a process of mediation to resolve the complaint as soon as practicable and before BSA investigates the complaint.

‘34B Mediation process

‘(1) If, at mediation, the parties agree to a resolution to the complaint, the agreement must be signed by, or for, each party and by the mediator (the “**mediation agreement**”).

‘(2) Mediation ends on the earlier of the following—

- (a) if a party withdraws from mediation—the day the party withdraws;
- (b) if the parties agree the mediation has ended—the day the parties agree mediation has ended;
- (c) if there is a mediation agreement—the day the agreement is signed;
- (d) unless BSA extends the period and advises parties in writing of the extension—20 business days after written notice is given under section 34A.

‘(3) As soon as practicable after mediation has ended, the mediator must give BSA a certificate about the mediation in the approved form.

‘(4) If the parties sign an agreement, the complaint is taken to be withdrawn.’

180 Replacement of s 35 (Accrediting body must investigate complaint)	1 2
Section 35—	3
<i>omit, insert—</i>	4
‘35 Investigation of complaint	5
‘(1) This section applies if—	6
(a) BSA does not recommend the complainant and the building certifier enter into mediation; or	7 8
(b) BSA recommends the complainant and the building certifier enter into mediation and the complaint is not resolved when the mediation ends.	9 10 11
‘(2) BSA must conduct an investigation into the complaint as soon as practicable.	12 13
‘(3) BSA may deal with 1 or more complaints about a building certifier in the same investigation.	14 15
‘(4) If during an investigation BSA is satisfied there is a matter about which another complaint could have been made against the building certifier, BSA may deal with the matter in its investigation as if a complaint had been made about the matter.’	16 17 18 19
181 Replacement of pt 5, div 5 hdg	20
Part 5, division 5, heading—	21
<i>omit, insert—</i>	22
‘Division 2—Investigations’.	23
182 Amendment of s 36 (Accrediting body may require documents to be produced)	24 25
(1) Section 36, heading, ‘ Accrediting body ’—	26
<i>omit, insert—</i>	27
‘ BSA ’.	28
(2) Section 36(1)—	29
<i>omit, insert—</i>	30

‘(1) For investigating a complaint or conducting an audit, BSA may, by written notice given to a building certifier, require the building certifier to produce a document to BSA, or a person authorised by BSA (an “auditor”).’.	1 2 3 4
(3) Section 36— <i>insert</i> —	5 6
‘(4) The building certifier must comply with the notice, unless the building certifier has a reasonable excuse. Maximum penalty for subsection (4)—50 penalty units.’.	7 8 9
183 Replacement of s 37 (Inspection of documents)	10
Section 37— <i>omit, insert</i> —	11 12
‘37 Inspection of documents	13
‘An auditor may inspect any document produced to BSA and copy it or any part of it.’.	14 15
184 Amendment of s 38 (Power to enter and inspect building)	16
Section 38, ‘accrediting’— <i>omit</i> .	17 18
185 Amendment of s 39 (Cooperating with investigation or audit)	19
(1) Section 39(1), ‘the accrediting body’— <i>omit, insert</i> — ‘BSA’.	20 21 22
(2) Section 39(2), ‘is guilty of’— <i>omit, insert</i> — ‘engages in’.	23 24 25
(3) Section 39(2)(b), ‘an accrediting body’— <i>omit, insert</i> — ‘BSA’.	26 27 28

186 Insertion of new ss 39A and 39B	1
After section 39—	2
<i>insert—</i>	3
‘39A False or misleading statements	4
‘(1) A person must not, in relation to an investigation or audit under this part, state anything to BSA that the person knows is false or misleading in a material particular.	5 6 7
Maximum penalty—165 penalty units.	8
‘(2) In a proceeding for an offence against subsection (1), it is enough to state that the statement made was, without specifying which, false or misleading.	9 10 11
‘39B False or misleading documents	12
‘(1) A person must not, in relation to an investigation or audit under this part, give BSA a document containing information the person knows is false or misleading in a material particular.	13 14 15
Maximum penalty—165 penalty units.	16
‘(2) Subsection (1) does not apply to a person if the person, when giving the document—	17 18
(a) tells BSA, to the best of the person’s ability, how it is false or misleading; and	19 20
(b) if the person has, or can reasonably obtain, the correct information—gives the correct information to BSA.	21 22
‘(3) In a proceeding for an offence against subsection (1), it is enough to state that the document was, without specifying which, false or misleading.’	23 24 25
187 Replacement of ss 40 and 41	26
Sections 40 and 41—	27
<i>omit, insert—</i>	28

‘40 Decision after investigation or audit completed	1
‘(1) After investigating a complaint or conducting an audit, BSA must decide whether or not the building certifier has engaged in unsatisfactory conduct or professional misconduct.	2 3 4
‘(2) BSA must give the building certifier and the complainant (if any) written notice of the decision taken under subsection (1).	5 6
‘(3) BSA must, if the building certifier is employed by a corporation or local government, give the employer a copy of the notice.	7 8
‘(4) If BSA decides the building certifier has engaged in unsatisfactory conduct, BSA must decide to do 1 or more of the following—	9 10
(a) reprimand the building certifier;	11
(b) impose the conditions it considers appropriate on the building certifier’s licence;	12 13
(c) direct the building certifier to complete to the satisfaction of BSA the educational courses stated by BSA;	14 15
(d) direct the building certifier to report on his or her practice as a building certifier at the times, in the way and to the persons stated by BSA;	16 17 18
(e) require the building certifier to take all necessary steps to ensure the certification of building work—	19 20
(i) complies with this Act; or	21
(ii) for other assessable development related to the building work—is not inconsistent with all other necessary development approvals that apply to the work; or	22 23 24
(iii) for self-assessable development that may affect the position, height or form of building work—is not inconsistent with the requirements for the self-assessable development;	25 26 27
(f) direct the building certifier to take necessary enforcement action under this or another Act, including, for example, by requiring the building certifier to issue an enforcement notice to the builder of the building work or owner of the building;	28 29 30 31
(g) if BSA is satisfied the building certifier is generally competent and diligent—advise the building certifier it does not intend to take any further action.	32 33 34
‘(5) BSA must—	35

(a)	give written notice of its decision under subsection (4) to the building certifier; and	1 2
(b)	if the decision is made after investigating a complaint—give the complainant a copy of the notice.	3 4
‘(6)	If BSA decides the building certifier has engaged in professional misconduct, BSA must apply to the building tribunal to start a disciplinary proceeding against the building certifier.	5 6 7
‘(7)	The notice given under subsection (2) or (4) must also state—	8
(a)	the reasons for the decision; and	9
(b)	the building certifier or complainant (if any) may apply to the building tribunal for a review of the decision; and	10 11
(c)	the application must be made within 20 business days after the day the building certifier receives the notice.	12 13
‘(8)	Subsection (4) does not prevent BSA taking the matter the subject of the investigation into consideration at a later time as part of a pattern of conduct that may result in a disciplinary proceeding against the building certifier.	14 15 16 17
‘(9)	Subsections (4) and (6) do not prevent BSA from starting a proceeding to prosecute the building certifier for an offence against this Act.	18 19 20
‘41	Review of BSA’s decision	21
‘(1)	This section applies if a building certifier or complainant is dissatisfied with BSA’s decision under section 40(1) or (4).	22 23
‘(2)	The building certifier or complainant may apply to the building tribunal for a review of the decision as if it were a reviewable decision under the Tribunal Act.	24 25 26
‘(3)	The application must be made within 20 business days after the day the appellant receives notice of the decision.’.	27 28
188	Replacement of pt 5, div 6	29
	Part 5, division 6—	30
	<i>omit, insert—</i>	31

<i>‘Division 3—Show cause notice for disciplinary proceedings</i>	1
‘41A Show cause notice	2
‘(1) If a local government reasonably believes proper grounds exist for applying to the building tribunal to start a disciplinary proceeding against a building certifier, the local government must before making the application give the building certifier a notice (a “ show cause notice ”).	3 4 5 6
‘(2) The show cause notice must—	7
(a) state the grounds for making the application; and	8
(b) outline the facts and circumstances forming the basis for the grounds; and	9 10
(c) invite the building certifier to show within a stated period (the “ show cause period ”) why the application should not be made.	11 12
‘(3) The show cause period must be a period ending not less than 20 business days after the show cause notice is given to the building certifier.	13 14 15
‘41B Representations and decision	16
‘(1) The building certifier may make written representations about the show cause notice to the local government in the show cause period.	17 18
‘(2) After considering the representations for the show cause notice, the local government must decide to—	19 20
(a) take no further action; or	21
(b) apply to the building tribunal to start a disciplinary proceeding against the building certifier.	22 23
‘(3) The local government must give the building certifier written notice of its decision and the reasons for the decision.	24 25
 <i>‘Division 4—Disciplinary proceedings</i>	 26
‘42 Building tribunal may conduct disciplinary proceeding	27
‘(1) The building tribunal may, on application by BSA or the local government, conduct a disciplinary proceeding to decide whether proper	28 29

grounds for taking disciplinary action against a building certifier are established.	1 2
‘(2) For subsection (1), proper grounds exist for taking disciplinary action if the building certifier has behaved in a way that constitutes professional misconduct.	3 4 5
‘43 Application of Tribunal Act to disciplinary proceeding	6
‘Subject to this division, the Tribunal Act applies to the disciplinary proceeding as if it were a proceeding under section 108 of that Act.	7 8
‘44 Notification of disciplinary proceeding	9
‘(1) If BSA makes the application, BSA must notify the local government of the application.	10 11
‘(2) If the local government makes the application, it must notify BSA of the application.	12 13
‘(3) The applicant must file a copy of the notification in the building tribunal.	14 15
‘45 Orders relating to current building certifier	16
‘(1) If the building tribunal decides that proper grounds exist for taking disciplinary action against a building certifier who is licensed at the time of the decision, the tribunal may make 1 or more of the orders mentioned in subsections (2) to (7).	17 18 19 20
‘(2) The building tribunal may make an order—	21
(a) reprimanding the building certifier; or	22
(b) imposing conditions it considers appropriate on the building certifier’s licence; or	23 24
(c) directing the building certifier to complete the educational courses stated in the order; or	25 26
(d) directing the building certifier to report on his or her practice as a building certifier at the times, in the way and to the persons stated in the order; or	27 28 29
(e) suspending the building certifier’s licence for the term the building tribunal considers appropriate; or	30 31

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-
- (f) cancelling the building certifier's licence; or 1
- (g) disqualifying, indefinitely or for a stated period, the building certifier from obtaining a licence as a building certifier from BSA. 2
3
4
- '(3) The building tribunal may make an order requiring the building certifier— 5
6
- (a) to ensure the certification of building work complies with, for example— 7
8
- (i) this or another Act; or 9
- (ii) any relevant development approval; or 10
- (iii) a local planning instrument; or 11
- (b) to direct necessary enforcement action be taken under this or another Act, for example, by requiring the building certifier to issue an enforcement notice to the builder of the building works or owner of the building. 12
13
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- '(4) The building tribunal may, in relation to building work that is defective or incomplete as a result of the professional misconduct, make an order that the building certifier— 16
17
18
- (a) at the building certifier's cost, have the work rectified or completed by a person who is appropriately licensed; or 19
20
- (b) pay the complainant or another person an amount sufficient to rectify or complete the work. 21
22
- '(5) The building tribunal may make an order imposing a penalty on the building certifier of not more than— 23
24
- (a) for a first finding of professional misconduct—an amount equivalent to 80 penalty units; or 25
26
- (b) for a second finding of professional misconduct—an amount equivalent to 120 penalty units; or 27
28
- (c) for a subsequent finding of professional misconduct—an amount equivalent to 160 penalty units. 29
30
- '(6) If a corporation or local government employed the building certifier to perform building certification work and the corporation or local government did not take all reasonable steps to ensure the building certifier did not engage in professional misconduct, the building tribunal may— 31
32
33
34

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(a) make an order under subsection (3) or (4) as if the corporation or local government were the building certifier; or	1 2
(b) make an order imposing a penalty on the corporation of not more than—	3 4
(i) for a first time that the corporation did not take all reasonable steps—an amount equivalent to 80 penalty units; or	5 6 7
(ii) for a second time that the corporation did not take all reasonable steps—an amount equivalent to 120 penalty units; or	8 9 10
(iii) for a subsequent time that the corporation did not take all reasonable steps—an amount equivalent to 160 penalty units.	11 12 13
‘(7) The building tribunal may make any other order it considers appropriate.	14 15
‘(8) If the building tribunal makes an order under subsection (5) or (6)(b), the tribunal must order that the amount be paid to the person bringing the disciplinary proceedings.	16 17 18
‘(9) The building tribunal may make an order under subsection (6) or, if the order affects the corporation or local government, under subsection (7), only if the corporation or local government has been joined as a party to the proceeding under section 45 ²¹ of the Tribunal Act.	19 20 21 22
‘45A Orders relating to former building certifier	23
‘(1) This section applies if the building tribunal decides that proper grounds exist for taking disciplinary action against a former building certifier.	24 25 26
‘(2) The tribunal may make 1 or more of the orders mentioned in subsections (3) to (8).	27 28
‘(3) The building tribunal may make an order requiring the former building certifier to—	29 30
(a) have another person who is appropriately licensed take all necessary steps to ensure the certification of building work complies with—	31 32 33

21 Section 45 (Joinder of parties) of the Tribunal Act

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- | | |
|---|----------------------------|
| (i) this or another Act; or | 1 |
| (ii) any relevant development approval; or | 2 |
| (iii) a local planning instrument; or | 3 |
| (b) pay the complainant or another person an amount sufficient to complete the certification work. | 4
5 |
| ‘(4) The building tribunal may, in relation to building work carried out that is defective or incomplete as a result of the professional misconduct, make an order that the former building certifier— | 6
7
8 |
| (a) at the building certifier’s cost, have the work rectified or completed by a person who is appropriately licensed; or | 9
10 |
| (b) pay the complainant or another person an amount sufficient to rectify or complete the work. | 11
12 |
| ‘(5) The building tribunal may make an order imposing a penalty on the former building certifier of not more than— | 13
14 |
| (a) for a first finding of professional misconduct—an amount equivalent to 80 penalty units; or | 15
16 |
| (b) for a second finding of professional misconduct—an amount equivalent to 120 penalty units; or | 17
18 |
| (c) for a subsequent finding of professional misconduct—an amount equivalent to 160 penalty units. | 19
20 |
| ‘(6) If a corporation or local government employed the former building certifier to perform building certification work and the corporation or local government did not take all reasonable steps to ensure the former building certifier did not engage in professional misconduct, the building tribunal may— | 21
22
23
24
25 |
| (a) make an order under subsection (3) or (4) as if the corporation or local government were the building certifier; or | 26
27 |
| (b) make an order imposing a penalty on the corporation of not more than— | 28
29 |
| (i) for a first time that the corporation did not take all reasonable steps—an amount equivalent to 80 penalty units; or | 30
31
32 |
| (ii) for a second time that the corporation did not take all reasonable steps—an amount equivalent to 120 penalty units; or | 33
34
35 |

(iii) for a subsequent time that the corporation did not take all reasonable steps—an amount equivalent to 160 penalty units.	1 2 3
‘(7) The building tribunal may make an order that the former building certifier must—	4 5
(a) not be licensed or re-licensed by BSA for the period stated in the order; or	6 7
(b) never be licensed or re-licensed by BSA.	8
‘(8) The building tribunal may make any other order it considers appropriate.	9 10
‘(9) If the building tribunal makes an order under subsection (5) or (6)(b), the tribunal must order the amount be paid to the person bringing the disciplinary proceedings.	11 12 13
‘(10) The building tribunal may make an order under subsection (6) or, if the order affects the corporation or local government, under subsection (8), only if the corporation or local government has been joined as a party to the proceeding under section 45 of the Tribunal Act.	14 15 16 17
‘45B Consequences of failure to comply with building tribunal’s orders and directions	18 19
‘The building tribunal may, in a disciplinary proceeding against a building certifier, order that the building certifier’s licence be suspended or cancelled if the building certifier fails to comply with an order or direction of the tribunal within the time allowed by the tribunal.	20 21 22 23
‘45C Recording details of orders	24
‘An order may state—	25
(a) the period in which the details of the order are to be included in the register for the person; and	26 27
(b) the details of the order, if any, that the building tribunal decides are not to be included in the register.’	28 29
189 Amendment of s 46A (Fees for statutory functions)	30
Section 46A(2), from ‘the person’—	31

<i>omit, insert—</i>	1
‘—	2
(a) the person liable to pay the fee; and	3
(b) the period within which the fee must be paid.’	4
190 Amendment of s 50 (Prosecution of offences)	5
(1) Section 50(4), from ‘any person’—	6
<i>omit, insert—</i>	7
‘BSA is the only person who may lay a complaint for an offence against—	8
(a) part 5 or 5A; or	9
(b) a provision of the Standard Building Regulation that is—	10
(i) made for part 5 or 5A; and	11
(ii) declared under a regulation to be a provision to which this subsection applies.’	12
(2) Section 50—	13
<i>insert—</i>	14
‘(5) All penalties recovered as a result of proceedings mentioned in subsection (4) must be paid to BSA.’	15
	16
191 Insertion of new pt 8	17
After section 59—	18
<i>insert—</i>	19
‘PART 8—TRANSITIONAL PROVISIONS FOR	20
PLUMBING AND DRAINAGE ACT 2002	21
	22
‘60 Definitions for pt 8	23
‘In this part—	24
“amending Act” means the <i>Plumbing and Drainage Act 2002</i> , part 11.	25
“building certifier” includes a former building certifier.	26
	27

“commencing day” means the day the <i>Plumbing and Drainage Act 2002</i> ,	1
section 191, commences.	2
“unamended Act” means the <i>Building Act 1975</i> as in force immediately	3
before the commencing day.	4
‘61 Swimming pool fences for existing tourist resort complexes	5
exempted	6
‘(1) This section applies to a tourist resort complex if, immediately	7
before the commencement of this section—	8
(a) the land used for the tourist resort complex is specified under a	9
regulation; and	10
(b) the tourist resort complex is not required to construct fencing	11
around a swimming pool on the land.	12
‘(2) A local law is of no effect if it requires the construction of fencing	13
around the swimming pool on the land, provided the land continues to be	14
specified under a regulation.	15
‘62 Unsatisfactory conduct and professional misconduct	16
‘(1) If the building tribunal is deciding whether or not proper grounds	17
exist for taking disciplinary action against a building certifier, the tribunal	18
may take into account conduct of the building certifier before or after the	19
commencing day.	20
‘(2) If BSA is deciding whether or not to apply to the building tribunal to	21
start a disciplinary proceeding against a building certifier, BSA may take	22
into account conduct of the building certifier before or after the	23
commencing day.	24
‘(3) If BSA is deciding whether or not a building certifier has engaged in	25
unsatisfactory conduct, BSA may take into account conduct of the building	26
certifier before or after the commencing day.	27
‘63 Appeals to chief executive against accrediting body’s decision	28
‘(1) If—	29
(a) a person has appealed to the chief executive under the	30
unamended Act against a decision of the accrediting body; and	31
(b) the appeal has not been decided before the commencing day;	32

the chief executive may decide the appeal as if the unamended Act were not amended by the amending Act.	1 2
‘(2) If —	3
(a) a person could have appealed to the chief executive under the unamended Act against a decision of the accrediting body; and	4 5
(b) the person has not appealed before the commencing day;	6
the person may apply to the building tribunal for a review of the decision under section 41 ²² as if the decision of the accrediting body were a decision of BSA.	7 8 9
‘64 Appeal to the court against chief executive’s decision	10
‘(1) If—	11
(a) a person has appealed to the court under the unamended Act against a decision of the chief executive; and	12 13
(b) the appeal has not been decided before the commencing day;	14
the court may decide the appeal as if the unamended Act were not amended by the amending Act.	15 16
‘(2) If—	17
(a) a person could have appealed to the court under the unamended Act against a decision of the chief executive; and	18 19
(b) the person has not appealed before the commencing day;	20
the person may appeal against the decision under the unamended Act as if the unamended Act were not amended by the amending Act.	21 22
‘65 Orders relating to building certifiers	23
‘(1) This section applies if the building tribunal makes an order under section 45(5) or 45A(5) for a building certifier.	24 25
‘(2) In making the order, the building tribunal may disregard any previous finding of professional misconduct against the building certifier made by an accrediting body before the commencing day.	26 27 28

22 Section 41 (Review of BSA’s decision)

‘(3) However, if the building certifier has, before the commencing day, been prosecuted under section 50 for an offence against this Act and found guilty, the building tribunal may take the offence into account when making the order.’.

PART 12—AMENDMENT OF INTEGRATED PLANNING ACT 1997

Division 1—Preliminary

192 Act amended in pt 12

This part amends the *Integrated Planning Act 1997*.

Division 2—Amendments for plumbing and drainage

193 Amendment of s 1.3.5 (Definitions for terms used in “development”)

Section 1.3.5, definitions “drainage work” and “plumbing work”—
omit.

194 Amendment of s 4.2.4 (Referee with conflict of interest not to be member of tribunal)

Section 4.2.4(1)(a)(ii)—
omit, insert—

‘(ii) in relation to which the referee was, is, or is to be, an architect, builder, drainer, engineer, planner, plumber, plumbing inspector, private certifier, site evaluator or soil assessor; or’.

195 Amendment of s 4.2.7 (Jurisdiction of tribunals)

Section 4.2.7(2)(a), after ‘1975’—

<i>insert—</i>	1
‘or the <i>Plumbing and Drainage Act 2002</i> ’.	2
196 Insertion of new s 4.2.12A	3
After section 4.2.12—	4
<i>insert—</i>	5
‘4.2.12A Appeals for plumbing and drainage matters	6
‘(1) A person to whom any of the following notices have been given may appeal to a tribunal against the decision in the notice—	7 8
(a) an information notice under the <i>Plumbing and Drainage Act 2002</i> about a decision under section 85 or 86 of that Act;	9 10
(b) a review notice under the <i>Plumbing and Drainage Act 2002</i> , section 133, about a review decision under that section.	11 12
‘(2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.’.	13 14
197 Amendment of s 4.2.18 (Notice of appeal to other parties (div 4))	15
Section 4.2.18(1)(a), after ‘4.2.12’—	16
<i>insert—</i>	17
‘or 4.2 12A’.	18
198 Amendment of s 5.3.5 (Private certifier may decide certain development applications and inspect and certify certain works)	19 20
Section 5.3.5(4)(c), ‘Standard Water Supply Law and Standard Sewerage Law’—	21 22
<i>omit, insert—</i>	23
‘ <i>Plumbing and Drainage Act 2002</i> ’.	24
199 Amendment of sch 8 (Assessable, self-assessable and exempt development)	25 26
Schedule 8, part 3—	27

<i>insert—</i>	1
‘ 11A. All plumbing and drainage work declared under the Standard Plumbing and Drainage Regulation to be exempt development.’	2 3
200 Amendment of sch 10 (Dictionary)	4
(1) Schedule 10, definitions “ drainage work ” and “ plumbing work ”— <i>omit.</i>	5 6
(2) Schedule 10— <i>insert—</i>	7 8
‘“ drainage work ” see <i>Plumbing and Drainage Act 2002</i> , schedule.	9
“ plumbing work ” see <i>Plumbing and Drainage Act 2002</i> , schedule.	10
“ Standard Plumbing and Drainage Regulation ” see <i>Plumbing and Drainage Act 2002</i> , section 145(2).’	11 12
<i>Division 3—Amendments for building</i>	13
201 Amendment of s 3.5.15 (Decision notice)	14
Section 3.5.15— <i>insert—</i>	15 16
‘(6) Also, if the owner of the land to which the approval attaches is an owner prescribed under a regulation, the assessment manager must, within 5 business days after the day the decision is made, give the owner the documents prescribed under a regulation.	17 18 19 20
‘(7) For subsection (6), a regulation may be made under this Act or the <i>Building Act 1975</i> .’	21 22
202 Amendment of s 4.1.42 (Notice of appeal to other parties (div 9))	23
(1) Section 4.1.42(1)(e)— <i>omit.</i>	24 25
(2) Section 4.1.42(1)(f)— <i>renumber</i> as section 4.1.42(1)(e).	26 27

203 Amendment of s 4.1.50 (Who must prove case)	1
(1) Section 4.1.50(8)—	2
<i>omit.</i>	3
(2) Section 4.1.50(9)—	4
<i>renumber</i> as section 4.1.50(8).	5
204 Amendment of s 5.3.2 (Definition for pt 3)	6
Section 5.3.2, definition “assessment manager”, ‘the application’—	7
<i>omit, insert—</i>	8
‘an application’.	9
205 Replacement of s 5.3.3 (What is a private certifier)	10
Section 5.3.3—	11
<i>omit, insert—</i>	12
‘5.3.3 Who is a private certifier	13
‘(1) A “private certifier” is—	14
(a) an individual who—	15
(i) has the qualifications, necessary experience or licence	16
prescribed under a regulation made under this or another	17
Act for a certifier for a stated code; and	18
(ii) enters into contractual arrangements with clients to certify	19
work for the code; and	20
(iii) carries out certification work for the code; or	21
(b) a corporation or public sector entity that—	22
(i) employs an individual mentioned in paragraph (a) to carry	23
out the work for the corporation or entity; and	24
(ii) enters into contractual arrangements with clients to provide	25
certification work that the individual carries out.	26
‘(2) To remove any doubt, it is declared that a development application	27
is not a contractual arrangement under subsection (1).’.	28

206 Replacement of s 5.3.4(Application must not be inconsistent with earlier approval)	1
	2
Section 5.3.4—	3
<i>omit, insert—</i>	4
‘5.3.4 Application must not be inconsistent with earlier approval and self-assessable development	5
	6
‘(1) If the application the private certifier is assessing relates to an earlier development approval that has not lapsed and was given by the assessment manager, the private certifier must not approve the application if it is inconsistent with the earlier approval.	7
	8
	9
	10
Maximum penalty—165 penalty units.	11
‘(2) If the application the private certifier is assessing relates to self-assessable development that may affect the position, height or form of building work, the private certifier must not approve the application if it is inconsistent with a local planning instrument declaring the development to be self-assessable development.	12
	13
	14
	15
	16
Maximum penalty—165 penalty units.’.	17
207 Amendment of s 5.3.5 (Private certifier may decide certain development applications and inspect and certify certain works)	18
	19
(1) Section 5.3.5 (1)—	20
<i>omit, insert—</i>	21
‘(1) For the types of development or works for which a private certifier has, or employs an individual with, the qualifications, necessary experience or licence, the private certifier may receive, assess and decide development applications as if the private certifier were the assessment manager.’.	22
	23
	24
	25
(2) Section 5.3.5(2)—	26
<i>omit.</i>	27
(3) Section 5.3.5(4)—	28
<i>insert—</i>	29
‘Maximum penalty—165 penalty units.’.	30
(4) Section 5.3.5(6) and (7)—	31
<i>insert—</i>	32

‘Maximum penalty—20 penalty units.’	1
(5) Section 5.3.5(8), after ‘resolution’—	2
<i>omit, insert—</i>	3
‘—	4
(a) fix a reasonable fee for accepting any document mentioned in subsection (6) or (7); and	5 6
(b) prescribe the period within which the fee must be paid.’	7
208 Amendment of s 5.3.6 (Private certifier may act as assessing authority in certain circumstances)	8 9
Section 5.3.6(1), from ‘—’—	10
<i>omit, insert—</i>	11
‘has been engaged to carry out certification work.’	12
209 Amendment of s 5.3.8 (Private certifiers must act in the public interest)	13 14
Section 5.3.8(2)(e), ‘published by an accrediting body’—	15
<i>omit, insert—</i>	16
‘approved under a regulation’.	17
210 Amendment of s 5.3.9 (Engaging private certifiers)	18
Section 5.3.9(2)—	19
<i>omit, insert—</i>	20
‘(2) If an applicant engages a private certifier, the private certifier must, within 5 business days after the engagement, give—	21 22
(a) the assessment manager written notice of the engagement; and	23
(b) the owner of the land to which the application relates written notice of—	24 25
(i) the name of the private certifier; and	26

(ii) the details, in an approved form, of the responsibilities of the private certifier in performing the certification work.	1 2
Maximum penalty—20 penalty units.’	3
211 Amendment of s 5.3.10 (Private certifiers may not be engaged if there is a conflict of interest)	4 5
Section 5.3.10, ‘person’—	6
<i>omit, insert</i> —	7
‘private certifier’.	8
212 Amendment of s 5.3.11 (Discontinuing engagement of private certifiers)	9 10
Section 5.3.11(1), after ‘including’—	11
<i>omit, insert</i> —	12
‘, for example, the resignation, disqualification, bankruptcy, insolvency, death or deregistration of the private certifier.’	13 14
213 Amendment of s 5.3.16 (Liability insurance and performance bonds)	15 16
(1) Section 5.3.16(1), ‘minimum’—	17
<i>omit</i> .	18
(2) Section 5.3.16(2), ‘act as a private certifier’—	19
<i>omit, insert</i> —	20
‘carry out certification work’.	21
214 Amendment of s 6.1.20 (Planning scheme policies for infrastructure)	22 23
Section 6.1.20(4), from ‘5 years’—	24
<i>omit, insert</i> —	25
‘on 31 March 2005.’	26

215 Amendment of s 6.1.31 (Conditions about infrastructure for applications)	1
	2
Section 6.1.31(3)(b), from ‘for 5 years’—	3
<i>omit, insert—</i>	4
‘until 31 March 2005.’.	5
216 Amendment of s 6.1.46 (Local Government (Robina Central Planning Agreement) Act 1992)	6
	7
Section 6.1.46(2)—	8
<i>omit.</i>	9
217 Amendment of sch 10 (Dictionary)	10
Schedule 10, definition “ accrediting body ”—	11
<i>omit.</i>	12
<i>Division 4—Other amendments</i>	13
218 Amendment of s 6.1.52 (Transitional regulations)	14
Section 6.1.52(4), from ‘5 years’—	15
<i>omit, insert—</i>	16
‘on 31 March 2003.’.	17

PART 13—AMENDMENT OF INTEGRATED PLANNING AND OTHER LEGISLATION AMENDMENT ACT 2001 1
2

Division 1—Preliminary 3

219 Act amended in pt 13 4

This part amends the *Integrated Planning and Other Legislation Amendment Act 2001*. 5
6

Division 2—Amendments for plumbing and drainage 7

220 Amendment of s 48 (Replacement of ss 4.2.17 and 4.2.18) 8

Section 48, in replaced section 4.2.18(1)(a), after ‘4.2.12’— 9

insert— 10

‘or 4.2.12A’. 11

221 Amendment of s 85 (Replacement of sch 10 (Dictionary)) 12

(1) Section 85, in replaced schedule 10, definitions “**drainage work**” and “**plumbing work**”— 13
14

omit. 15

(2) Section 85, in replaced schedule 10— 16

insert— 17

‘**“drainage work”** see *Plumbing and Drainage Act 2002*, schedule. 18

“**plumbing work**” see *Plumbing and Drainage Act 2002*, schedule. 19

“**Standard Plumbing and Drainage Regulation**” see *Plumbing and Drainage Act 2002*, section 145(2).’ 20
21

<i>Division 3—Amendments for building</i>		1
222 Amendment of s 27 (Replacement of ch 3 (Integrated development assessment system (IDAS)))		2 3
Section 27, inserted section 3.5.15—		4
<i>insert—</i>		5
‘(6) Also, if the owner of the land to which the approval attaches is an owner prescribed under a regulation, the assessment manager must, within 5 business days after the day the decision is made, give the owner the documents prescribed under a regulation.		6 7 8 9
‘(7) For subsection (6), a regulation may be made under this Act or the <i>Building Act 1975</i> .’		10 11
223 Amendment of s 78 (Amendment of s 6.1.31 (Conditions about infrastructure for applications))		12 13
Section 78(2), inserted section 6.1.31(3)(b)(i)—		14
<i>omit, insert—</i>		15
‘(i) 31 March 2005; or’.		16
224 Amendment of s 85 (Replacement of sch 10 (Dictionary))		17
Section 85, inserted definition “accrediting body”—		18
<i>omit.</i>		19
PART 14—AMENDMENT OF LOCAL GOVERNMENT ACT 1993		20 21
<i>Division 1—Preliminary</i>		22
225 Act amended in pt 14		23
This division amends the <i>Local Government Act 1993</i> .		24

<i>Division 2—Amendments for stormwater drainage</i>	1
226 Insertion of new ch 13, pt 7	2
In chapter 13—	3
<i>insert—</i>	4
‘PART 7—STORMWATER DRAINAGE	5
‘956 Local government may require stormwater to discharge to its stormwater drainage	6 7
‘(1) A local government may, by written notice, require the owner of premises to connect a stormwater installation for the premises to the local government’s stormwater drainage in the way, under the conditions and within the time stated in the notice.	8 9 10 11
‘(2) A way, condition or time stated in the notice must be reasonable in the circumstances of the notice.	12 13
‘(3) The owner must comply with the notice, unless the owner has a reasonable excuse.	14 15
Maximum penalty for subsection (3)—165 penalty units.	16
‘956A Approval required to connect	17
‘(1) A person must not connect a stormwater installation for premises to a local government’s stormwater drainage unless—	18 19
(a) the local government has given its approval for the connection; or	20
(b) the local government has, by written notice, required the owner of the premises to connect the stormwater installation to the local government’s stormwater drainage.	21 22 23
Maximum penalty—165 penalty units.	24
‘(2) The local government may impose conditions on an approval mentioned in subsection (1), including conditions about the way the connection must be made.	25 26 27

‘(3) A person who connects a stormwater installation under an approval mentioned in subsection (1) must comply with the conditions imposed on the approval under subsection (2).’

Maximum penalty for subsection (3)—165 penalty units.

‘956B Sanitary drainage must not connect to stormwater drainage’

‘(1) The owner of premises must not connect, or allow an on-site sewerage facility, sanitary drainage or property sewer for the premises to be connected, to any part of a stormwater installation for the premises or local government’s stormwater drainage.’

Maximum penalty—165 penalty units.

‘(2) An owner of premises who becomes aware that an on-site sewerage facility, sanitary drainage or property sewer for the premises is connected to any part of a stormwater installation for the premises or local government’s stormwater drainage, must, as soon as reasonably practicable, take all necessary steps to disconnect the facility, drainage or sewer from the stormwater installation or drainage.’

Maximum penalty—165 penalty units.

‘956C Owner may be directed to do certain work’

‘(1) This section applies if there is, on premises, any connection of sanitary plumbing, sanitary drainage or a discharge from an on-site sewerage facility to—

- (a) a stormwater installation on the premises; or
- (b) the local government’s stormwater drainage.

‘(2) The local government may, by written notice, require the owner of the premises to perform, within the time stated in the notice, the work stated in the notice.’

‘(3) The time stated in the notice must be—

- (a) a time that is reasonable in the circumstances; and
- (b) subject to subsection (4), at least 1 month after the notice is given to the owner.

‘(4) The time stated in the notice may be less than 1 month but must not be less than 48 hours if the work stated in the notice—

(a) is required to stop a serious health risk continuing; or	1
(b) relates to a connection that is causing damage to the local government's stormwater drainage.	2 3
‘(5) The work stated in the notice must be work that is reasonably necessary for fixing or otherwise dealing with the on-site sewerage facility, sanitary plumbing or sanitary drainage.	4 5 6
‘(6) Without limiting subsection (5), the notice may require the owner—	7
(a) to remedy a contravention of this Act; or	8
(b) to disconnect something connected to stormwater drainage without the local government's approval.	9 10
‘(7) The owner must comply with the notice, unless the owner has a reasonable excuse.	11 12
Maximum penalty for subsection (7)—165 penalty units.	13
‘956D Prohibition on discharge of prohibited substances and trade waste into stormwater drainage	14 15
‘(1) A person must not discharge a prohibited substance into stormwater drainage.	16 17
Maximum penalty—1 000 penalty units.	18
‘(2) A person must not discharge trade waste into stormwater drainage.	19
Maximum penalty—1 000 penalty units.	20
‘956E Cost of repairing damaged stormwater drainage	21
‘(1) This section applies if—	22
(a) in contravention of section 956D, a person discharges a prohibited substance into a local government's stormwater drainage; and	23 24 25
(b) the discharge causes damage to the stormwater drainage.	26
‘(2) The local government may perform work to fix the damage, and may recover the reasonable costs for the work from the person who discharged the prohibited substance.	27 28 29
‘(3) The costs mentioned in subsection (2) are in addition to any penalty imposed for the discharge.	30 31

‘956F Interference with path of stormwater	1
‘(1) A person must not restrict or redirect the flow of stormwater over land in a way that may cause the water to collect and become stagnant.	2
	3
Maximum penalty—165 penalty units.	4
‘(2) Subsection (1) does not apply to water collected in a dam, wetland, tank or pond, if no offensive material is allowed to accumulate.’.	5
	6
227 Amendment of s 1077 (Indictable and summary offences)	7
Section 1077(1)—	8
<i>omit, insert—</i>	9
‘(1) The following offences are indictable offences—	10
(a) an offence against chapter 8, part 7 for which the maximum penalty of imprisonment is 2 years or more;	11
	12
(b) an offence against section 956D. ²³ ’.	13
228 Amendment of s 1122 (Ownership of things in local government’s control)	14
	15
(1) Section 1122(4)(b)—	16
<i>omit.</i>	17
(2) Section 1122(4)(c)—	18
<i>renumber</i> as section 1122(4)(b).	19
229 Amendment of schedule (Dictionary)	20
(1) Schedule, definition “ local government Act ”—	21
<i>omit.</i>	22
(2) Schedule—	23
<i>insert—</i>	24

23 Section 956D (Prohibition on discharge of prohibited substances and trade waste into stormwater drainage)

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-
- ‘ **“common effluent drainage”** means a sewerage system for carrying off effluent from premises after treatment in an on-site sewerage facility for the premises. 1
2
3
- “local government Act”** means an Act under which a local government may exercise the jurisdiction of local government, and includes, for example— 4
5
6
- (a) this Act; and 7
 - (b) the *Integrated Planning Act 1997*; and 8
 - (c) the *Plumbing and Drainage Act 2002*; and 9
 - (d) the *Water Act 2000*, chapter 3; and 10
 - (e) an interim development control provision; and 11
 - (f) a local law; and 12
 - (g) a planning scheme. 13
- “on-site sewage treatment plant”** is a sewage treatment plant installed or to be installed on premises as part of an on-site sewerage facility for the premises. 14
15
16
- “on-site sewerage facility”** means a facility installed on premises for— 17
- (a) treating, on the premises, sewage generated on the premises, and disposing of the resulting effluent— 18
19
 - (i) on the premises; or 20
 - (ii) off the premises by— 21
 - (A) common effluent drainage; or 22
 - (B) collection from a tank on the premises; or 23
 - (b) storing on the premises sewage generated on the premises for its later disposal off the premises by collection from the premises. 24
25
- “premises group”** means the land comprised in 2 or more premises all the owners of which have mutual rights and obligations under the *Body Corporate and Community Management Act 1997* or *Building Units and Group Titles Act 1980*, but only to the extent of its continued application for a specified Act, for the purpose of their respective ownerships, and includes the common property forming part of— 26
27
28
29
30
31
- (a) if the premises are lots included in a community titles scheme under the *Body Corporate and Community Management Act 1997*—the scheme land under that Act for the scheme; or 32
33
34

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- (b) if the premises are lots under the *Building Units and Group Titles Act 1980*, but only to the extent of its continued application for a specified Act—the parcel of which the premises form part. 1
2
3

“prohibited substance” means— 4

- (a) a solid or viscous substance in a quantity, or of a size, that can obstruct, or interfere with the operation of, stormwater drainage; 5
6
or 7

Examples for paragraph (a)— 8

- ash, cinders, sand, mud, straw and shavings 9
- metal, glass and plastics 10
- paper and plastic dishes, cups and milk containers 11
- rags, feathers, tar and wood 12
- whole blood, paunch manure, hair and entrails 13
- oil and grease 14
- cement laden waste water, including, wash down from exposed aggregate concrete surfaces. 15
16

- (b) a flammable or explosive solid, liquid or gaseous substance; or 17

- (c) sewage; or 18

- (d) a substance that, given its quantity, is capable alone, or by interaction with another substance discharged into stormwater drainage, of— 19
20
21

- (i) inhibiting or interfering with the stormwater drainage; or 22

- (ii) causing damage or a hazard to the stormwater drainage; or 23

- (iii) causing a hazard for humans or animals; or 24

- (iv) creating a public nuisance; or 25

- (v) creating a hazard in waters into which it is discharged; or 26

- (vi) contaminating the environment in places where stormwater is discharged or reused; or 27
28

Example for paragraph (d)— 29

A substance with a pH lower than 6.0 or greater than 10.0, or having another corrosive property. 30
31

- (e) a substance having a temperature of more than— 32

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-
- (i) if the local government has approved a maximum temperature for the substance—the approved maximum temperature; or
- (ii) if paragraph (a) does not apply—38°C.
- “property sewer”** means a sewer for premises or a premises group.
- “sanitary drain”** means a drain (not including a pipe that is a part of common effluent drainage) that is immediately connected to, and used to carry discharges from, a soil or waste pipe for premises.
- “sanitary drainage”** means apparatus, fittings and pipes for collecting and carrying discharges from sanitary plumbing, or from fixtures directly connected to a sanitary drain, to a sewerage system or on-site sewerage facility, including the following apparatus, fittings and pipes—
- (a) disconnector gullies;
 - (b) bends at the foot of stacks or below ground level;
 - (c) for 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.
- “sanitary plumbing”** means apparatus, fittings, fixtures and pipes that carry sewage to a sanitary drain.
- “septic tank”** means a tank in which solid organic matter in sewage is decomposed by anaerobic bacteria.
- “sewage treatment plant”** means equipment for the biological, physical or chemical treatment of sewage.
- “sewerage system”** means infrastructure used to receive, transport and treat sewage or effluent, including, for example, sewers, access chambers, vents, engines, pumps, structures, machinery and outfalls.
- “stormwater drainage”** means a drain, channel, pipe, chamber, structure, outfall or other work used to receive, store, transport or treat stormwater.
- “stormwater installation”**, for premises, means roof gutters, downpipes, subsoil drains and stormwater drainage for the premises, but does not include any part of a local government’s stormwater drainage.
- “trade waste”** means water-borne waste from business, trade or manufacturing premises, other than—

(a) a prohibited substance; and	1
(b) human waste.’.	2
<i>Division 3—Amendments for building</i>	
230 Amendment of s 502 (Issue of standards)	4
Section 502(1)(h), ‘and roads business activities’—	5
<i>omit, insert—</i>	6
‘, roads business activities and building certification business activities’.	7
231 Amendment of s 758 (Object of ch 9)	8
Section 758(a), after ‘activities’—	9
<i>insert—</i>	10
‘and building certification business activities’.	11
232 Amendment of s 759 (Competitive neutrality principles)	12
Section 759(b), ‘or roads business activity’—	13
<i>omit, insert—</i>	14
‘, roads business activity or building certification business activity’.	15
233 Amendment of s 761 (Definitions for ch 9)	16
Section 761—	17
<i>insert—</i>	18
‘ “building certification business activity” , of a local government,	19
means—	20
(a) performing building certifying functions if the local government,	21
in carrying on the activity, engages in competition with the	22
private sector; and	23
(b) the activity is prescribed under a regulation.	24
“building certifying function” see the <i>Building Act 1975</i> , section 3(1).’.	25

234 Amendment of s 762 (Meaning of “business activity”)	1
(1) Section 762(2)—	2
<i>insert—</i>	3
‘(ba)a building certification business activity; or’.	4
(2) Section 762(2)(ba) to (d)—	5
<i>renumber</i> as section 762(c) to (e).	6
235 Insertion of new s 763A	7
After section 763—	8
<i>insert—</i>	9
‘763A Code must be applied to building certification business activities	10
‘(1) A local government that, in a financial year, carries on a building certification business activity must apply the code of competitive conduct to its carrying on the activity for the following financial year.	11
	12
	13
‘(2) A local government’s annual report must state whether or not the local government carried on a building certification business activity during the financial year.’.	14
	15
	16
236 Amendment of s 790 (Definitions for ch 11)	17
Section 790, definition “ competitive advantage ”, examples—	18
<i>omit, insert—</i>	19
<i>Examples of ‘financial advantage’—</i>	20
1. An advantage enjoyed by a local government business entity carrying on an activity because the entity is exempt from a local government charge applying to a person making a complaint.	21
	22
	23
2. An advantage enjoyed by a local government business entity carrying on an activity because the entity is charged a different local government charge from the local government charge applying to a person making a complaint.	24
	25
	26
<i>Example of ‘regulatory advantage’—</i>	27
An advantage enjoyed by a local government business entity carrying on an activity because the entity is completely or partly exempt from an approval procedure applying to a person making a complaint.	28
	29
	30

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<i>Examples of ‘procedural advantage’—</i>	1
1. An advantage enjoyed by a local government business entity carrying on an activity because the entity does not have to supply the same level of information under local government approval procedures as a person making a complaint.	2 3 4 5
2. An advantage enjoyed by a local government business entity carrying on an activity because the entity is given, or has access to, more information under local government approval procedures than a person making a complaint.’.	6 7 8
237 Amendment of s 807 (Contents of reports)	9
(1) Section 807(b)—	10
<i>omit, insert—</i>	11
‘(b) if the referee considers the complaint has been substantiated—	12
(i) for all complaints—include recommendations on how the local government business entity’s failure to carry on an activity in a way that complies with the competitive neutrality principles applying to the activity could be overcome; and	13 14 15 16 17
(ii) for a complaint about a building certification business activity, include—	18 19
(A) comments on how the carrying out of statutory building functions has resulted in a competitive advantage to the local government business entity; and	20 21 22
(B) recommendations on how the advantage provided to the entity could be overcome; and’.	23 24
(2) Section 807—	25
<i>insert—</i>	26
‘(2) In this section—	27
“ building certifier ” see the <i>Building Act 1975</i> , section 3(1).	28
“ statutory building functions ” means building functions under the <i>Building Act 1975</i> or <i>Integrated Planning Act 1997</i> that only a local government is able to provide and on which a building certifier relies.	29 30 31
<i>Example—</i>	32
1. Providing site or town planning information to a building certifier.	33
2. Receiving and processing documents from a building certifier.’.	34

238 Amendment of s 815 (Local government may resolve Queensland Competition Authority to be referee)	1
Section 815(1)(b), after ‘activity’—	2
<i>insert—</i>	3
‘or building certification business activity’.	4
239 Amendment of s 821 (Application of pt 3)	5
Section 821(1)(b), ‘activity,’—	6
<i>omit, insert—</i>	7
‘activity or building certification business activity’.	8
240 Amendment of s 832 (Application of pt 4)	9
Section 832(b)—	10
<i>omit, insert—</i>	11
‘(b) a business activity, roads business activity or building certification business activity under chapter 9.’.	12
	13
	14
 PART 15—AMENDMENT OF WATER ACT 2000	 15
241 Act amended in pt 15	16
This part amends the <i>Water Act 2000</i> .	17
242 Amendment of s 432 (No charge for water for fire fighting purposes)	18
(1) Section 432(2), ‘a meter’—	19
<i>omit, insert—</i>	20
‘either or both a meter or a seal’.	21
(2) Section 432—	22
<i>insert—</i>	23
	24

‘(3) Within 24 hours after a seal is broken, the occupier of the premises must give the service provider written notice of the breaking, unless the occupier has a reasonable excuse.	1 2 3
Maximum penalty for subsection (3)—20 penalty units.’.	4
243 Amendment of s 452 (Access to service in service area)	5
(1) Section 452(2), after ‘water service’—	6
<i>insert—</i>	7
‘or sewerage service’.	8
(2) Section 452(3)—	9
<i>omit.</i>	10
244 Amendment of s 784 (Proceeding for orders)	11
(1) Section 784(2)—	12
<i>omit, insert—</i>	13
‘(2) If the order sought under subsection (1) is for an offence against—	14
(a) section 376, 410, 417, 419, 421, 430, 821 or 956—the proceeding may be brought only by the regulator; or	15 16
(b) section 389, 393, 432 or 433—the proceeding may be brought only by the service provider.’.	17 18
(2) Section 784(4) and (5)—	19
<i>omit, insert—</i>	20
‘(4) If the order sought under subsection (1) is for an offence against section 824, 824A or 824B the proceeding may be brought only by the service provider.	21 22 23
‘(5) If the order sought under subsection (1) is for an offence against section 456, 822 or 823 the proceeding may be brought only by the regulator or the service provider.’.	24 25 26
245 Amendment of section 822 (Connecting to service provider’s infrastructure without approval)	27 28
(1) Section 822, heading, after ‘Connecting to’—	29

<i>insert—</i>	1
‘or disconnecting from’.	2
(2) Section 822, after ‘connect to’—	3
<i>insert—</i>	4
‘, or disconnect from,’.	5
246 Amendment of section 823 (Interfering with service provider’s infrastructure)	6
	7
Section 823—	8
<i>insert—</i>	9
(2) A person must not, without the written consent of a service provider, build over, interfere with access to, increase or reduce the cover over, or change the surface of land in a way causing ponding of water over an access chamber for, a service provider’s infrastructure.	10
	11
	12
	13
Maximum penalty—500 penalty units.’.	14
247 Amendment of s 824 (Discharging certain materials)	15
(1) section 824(4), after ‘prohibited substance’—	16
<i>insert—</i>	17
‘, surface water, soil, sand or rock’.	18
(2) Section 824(5), after ‘service area’—	19
<i>insert—</i>	20
‘for a sewerage service’.	21
(3) Section 824—	22
<i>insert—</i>	23
(6) A person must not discharge water from an ornamental pond, a swimming pool or the filtration system of a swimming pool into a service provider’s infrastructure without the written consent of the service provider.	24
	25
	26
	27
Maximum penalty—500 penalty units.’.	28

248 Insertion of new ss 824A and 824B	1
Chapter 5, part 3, division 2—	2
<i>insert—</i>	3
‘824A Polluting water	4
‘A person must not do anything likely to pollute water in a service provider’s water service.	5
	6
Maximum penalty—1 000 penalty units.	7
‘824B Taking water without approval	8
‘(1) A person must not, without a service provider’s written approval, take water from a service provider’s infrastructure.	9
	10
Maximum penalty—1 000 penalty units.	11
‘(2) If water is supplied to premises by a service provider’s infrastructure for domestic purposes, a person must not, without the service provider’s written approval, take water from a supply pipe on the premises for use off the premises, other than for the domestic purposes of the owner or occupier of the premises.	12
	13
	14
	15
	16
Maximum penalty—1 000 penalty units.	17
‘(3) However, a person may take water from a service provider’s infrastructure—	18
	19
(a) for fire fighting purposes; or	20
(b) if the water is supplied for general public use.’.	21
249 Amendment of s 932 (Proceedings for offences)	22
(1) Section 932(1)—	23
<i>omit, insert—</i>	24
‘(1) Proceedings for an offence against—	25
(a) section 376, 410, 417, 419, 421, 430, 821 or 956—may be brought only by the Attorney-General or regulator; or	26
	27
(b) section 389, 393, 432 or 433—may be brought only by the Attorney-General or service provider.’.	28
	29
(2) Section 932(3) and (4)—	30

<i>omit, insert—</i>	1
‘(3) Proceedings for an offence against section 824, 824A or 824B may be brought only by the Attorney-General or service provider.’	2 3
‘(4) Proceedings for an offence against section 456, 822 or 823 may be brought only by the Attorney-General, regulator or service provider.’	4 5
250 Amendment of schedule 4 (Dictionary)	6
(1) Schedule 4—	7
<i>insert—</i>	8
‘ “graded jump up” means an inclined section of pipe joining 2 drains, or a sewer and a sanitary drain or property sewer, at different levels.’	9 10
“jump up” means a vertical section of pipe joining 2 drains, or a sewer and a sanitary drain or property sewer, at different levels.	11 12
“premises group” means the land comprised in 2 or more premises all the owners of which have mutual rights and obligations under the <i>Body Corporate and Community Management Act 1997</i> or the <i>Building Units and Group Titles Act 1980</i> for their respective ownerships, and includes the common property forming part of—	13 14 15 16 17
(a) if the premises are lots included in a community titles scheme under the <i>Body Corporate and Community Management Act 1997</i> —the scheme land under that Act for the scheme; or	18 19 20
(b) if the premises are lots under the <i>Building Units and Group Titles Act 1980</i> —the parcel of which the premises form part.	21 22
“property sewer” means a sewer for a premises or a premises group.	23
“sanitary drain” means a drain (not including a pipe that is a part of common effluent drainage) that is immediately connected to, and used to carry discharges from, a soil or waste pipe for an individual premises.’	24 25 26
(2) Schedule 4, definition “property service” —	27
<i>omit, insert—</i>	28
‘ “property service” means—	29
(a) for a water service—the pipes and fittings installed for connecting premises to a service provider’s infrastructure; or	30 31

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- (b) for a sewerage service—a junction, bend, pipe, jump up or 1
graded jump up required to connect a sanitary drain or property 2
sewer to a service provider’s infrastructure.’ 3

SCHEDULE	1
DICTIONARY	2
section 3	3
“appropriately qualified” , for a person to whom a power under this Act may be delegated, includes having the qualifications or experience appropriate to exercise the power.	4 5 6
“approved form” means a form approved by the chief executive under section 141.	7 8
“AS/NZS 1546” means AS/NZS 1546.1:1998, On-site domestic wastewater treatment units—Part 1: Septic tanks, as in force from time to time.	9 10 11
“backflow prevention device” means a device to prevent the reverse flow of water from a potentially polluted source into a potable water supply system.	12 13 14
“board” means the Plumbing and Drainage Board established under section 5.	15 16
“building and development tribunal” means a building and development tribunal established under the <i>Integrated Planning Act 1997</i> .	17 18
“built item” means—	19
(a) an on-site sewage treatment plant that is wholly built on the premises where it is, or is to be, used; or	20 21
(b) an element of an on-site sewage treatment plant, if the element is wholly built on the premises where the plant is, or is to be, used.	22 23
“chairperson” means the chairperson of the board appointed under section 11(1).	24 25
“common effluent drainage” means a sewerage system for carrying effluent from premises after treatment in an on-site sewerage facility for the premises.	26 27 28
“compliance assessment” means assessment under part 4.	29
“compliance certificate” see section 79.	30

SCHEDULE (continued)

“compliance permit” see section 78.	1
“deputy chairperson” means the deputy chairperson of the board appointed under section 11(1).	2 3
“deputy member” means a deputy member appointed under section 10.	4
“drainage” means an apparatus, fitting or pipe, either above or below ground level, that carries sewage to a sewer or to or from an on-site sewerage facility.	5 6 7
“drainage work” includes installing, changing, extending, disconnecting, taking away and maintaining drainage.	8 9
“enforcement notice” means a notice given under section 116 or 117.	10
“foreign licensing authority” means—	11
(a) an interstate or the New Zealand licensing authority; or	12
(b) an entity established under a law applying in a foreign country, other than New Zealand, having functions similar to the board’s functions.	13 14 15
“information notice” means—	16
(a) for a decision of the board under part 3, a notice stating the following—	17 18
(i) the decision;	19
(ii) the reasons for the decision;	20
(iii) that the person to whom the notice is given may apply for a review of the decision within 28 days;	21 22
(iv) how the person may apply for the review;	23
(v) if the decision is that a person be licensed on conditions—the review period applying to the conditions;	24 25
(vi) if the decision is that a licence be renewed or restored—the review period applying to the conditions;	26 27
(vii) if the decision is that a licence be cancelled—a direction to the licensee to return the licence to the board within 10 business days after receiving the notice;	28 29 30

SCHEDULE (continued)

(viii) if the decision is that the conditions imposed on a licence be confirmed—the review period applying to the confirmed conditions;	1 2 3
(ix) if the decision is that the conditions imposed on a licence be changed—	4 5
(A) the review period applying to the changed conditions;	6
and	7
(B) a direction to the licensee to return the licence to the board within 10 business days after receiving the notice; or	8 9 10
(b) for a decision of a local government under section 85 or 86, a notice stating the following—	11 12
(i) the decision;	13
(ii) the reasons for the decision;	14
(iii) that the person to whom the notice is given may appeal against the decision to a building and development tribunal within 20 business days;	15 16 17
(iv) how the person may appeal against the decision; or	18
(c) for a decision of the chief executive or a local government under part 5, a notice stating the following—	19 20
(i) the decision;	21
(ii) the reasons for the decision;	22
(iii) that the person to whom the notice is given may apply for a review of the decision within 20 business days;	23 24
(iv) how the person may apply for a review.	25
“inspector” means a person appointed under section 107 as an inspector for this Act.	26 27
“interstate or New Zealand licence” means a licence that is granted by an interstate or the New Zealand licensing authority.	28 29
“interstate or the New Zealand licensing authority” means an entity established under the law of another State or New Zealand having functions similar to the board’s functions.	30 31 32

SCHEDULE (continued)

“ licence ” means a licence in force under part 3.	1
“ member ” means a member of the board.	2
“ minor work ” means plumbing or drainage work prescribed under the Standard Plumbing and Drainage Regulation as minor work.	3 4
“ model approval ” see section 93.	5
“ occupier ”, of premises, includes a person who reasonably appears to be the occupier of, or in charge of, the premises.	6 7
“ on-site facility conditions ” see section 96(3) or 100(3).	8
“ on-site sewage treatment plant ” is a sewage treatment plant installed or to be installed on premises as part of an on-site sewerage facility for the premises.	9 10 11
“ on-site sewerage code ” means the code of practice for on-site sewerage facilities as at the commencement of part 5. ²⁴	12 13
“ on-site sewerage facility ” means a facility installed on premises for—	14
(a) treating, on the premises, sewage generated on the premises, and disposing of the resulting effluent—	15 16
(i) on the premises; or	17
(ii) off the premises by—	18
(A) common effluent drainage; or	19
(B) collection from a tank on the premises; or	20
(b) storing on the premises sewage generated on the premises for its subsequent disposal off the premises by collection from the premises.	21 22 23
“ original decision ” see—	24
(a) for part 7, division 1—section 129(1); or	25
(b) for part 7, division 2—section 132(1).	26
“ owner ” means—	27

24 The On-Site Sewerage Code may be inspected at the department’s office at 41 George Street, Brisbane or on the department’s website at www.nrm.qld.gov.au.

SCHEDULE (continued)

(a) for premises comprising a building or structure—the owner of the building or structure within the meaning of the <i>Building Act 1975</i> , section 3(1); or	1 2 3
(b) for other premises—the person for the time being entitled to receive the rent for the premises or who would be entitled to receive the rent for the premises if the premises were let to a tenant for rent.	4 5 6 7
“plan” includes any supporting documentation for the plan.	8
“plumbing” means—	9
(a) for water—an apparatus, fitting or pipe for carrying water within premises; or	10 11
(b) for sewage—an apparatus, fitting, fixture or pipe, above ground level, that carries sewage on premises to drainage.	12 13
“plumbing work” includes installing, changing, extending, disconnecting, taking away and maintaining plumbing.	14 15
“prefabricated item” means—	16
(a) a wholly prefabricated on-site sewage treatment plant; or	17
(b) a prefabricated element of an on-site sewage treatment plant.	18
“prohibited substance” means—	19
(a) a solid or viscous substance in a quantity, or of a size, that can obstruct, or interfere with the operation of, an on-site sewerage facility; or	20 21 22
<i>Examples for paragraph (a)—</i>	23
• ash, cinders, sand, mud, straw and shavings	24
• metal, glass and plastics	25
• paper and plastic dishes, cups and milk containers	26
• rags, feathers, tar and wood	27
• whole blood, paunch manure, hair and entrails	28
• oil and grease	29
• cement laden waste water, including, wash down from exposed aggregate concrete surfaces.	30 31
(b) a flammable or explosive solid, liquid or gaseous substance; or	32

SCHEDULE (continued)

(c) floodwater, rainwater and stormwater, and roof water, seepage water, subsoil water and surface water; or	1 2
(d) a substance that, given its quantity, is capable alone, or by interaction with another substance discharged into an on-site sewerage facility, of—	3 4 5
(i) inhibiting or interfering with a sewage treatment process; or	6
(ii) causing damage or a hazard to an on-site sewerage facility; or	7 8
(iii) causing a hazard for humans or animals; or	9
(iv) creating a public nuisance; or	10
(v) creating a hazard in waters into which it is discharged; or	11
(vi) contaminating the environment in places where effluent or sludge from a sewage treatment plant is discharged or reused; or	12 13 14
<i>Example paragraph (d)—</i>	15
A substance with a pH lower than 6.0 or greater than 10.0, or having another corrosive property.	16 17
(e) a substance having a temperature of more than—	18
(i) if the local government has approved a maximum temperature for the substance—the approved maximum temperature; or	19 20 21
(ii) if paragraph (a) does not apply—38°C.	22
“public sector entity” —	23
1. “Public sector entity” means—	24
(a) a department or part of a department; or	25
(b) an agency, authority, commission, corporation, instrumentality, office, or other entity, established under an Act for a public or State purpose.	26 27 28
2. The term includes a government owned corporation.	29
“register” means the register kept under section 77.	30
“regulated work” means plumbing or drainage work that is not minor work or unregulated work.	31 32

SCHEDULE (continued)

“repealed Act” means the <i>Sewerage and Water Supply Act 1949</i> .	1
“review decision” see section 133(2).	2
“review notice” see section 133(3).	3
“review period” , applying to conditions imposed by the board or the Queensland Building Tribunal on a licence, means the period of not more than 2 years after the decision to impose the conditions takes effect within which the licensee may not apply for a review of the conditions under part 3, division 6.	4 5 6 7 8
“sanitary drain” means a drain (not including a pipe that is a part of common effluent drainage) that is immediately connected to, and used to carry discharges from, a soil or waste pipe for an individual premises.	9 10 11 12
“secretary” means the person holding office under an appointment made under section 29.	13 14
“septic tank” means a tank in which solid organic matter in sewage is decomposed by anaerobic bacteria.	15 16
“sewage treatment plant” means equipment for the biological, physical or chemical treatment of sewage.	17 18
“sewer” means a pipe, other than for drainage, for carrying sewage from premises.	19 20
“sewerage system” means infrastructure used to receive, transport and treat sewage or effluent, including, for example, sewers, access chambers, vents, engines, pumps, structures, machinery and outfalls.	21 22 23
“show cause notice” for—	24
(a) part 3, division 7—see section 66(1); or	25
(b) part 6, division 2—see section 115(1).	26
“Standard Plumbing and Drainage Regulation” see section 145(2).	27
“stormwater installation” , for premises, means roof gutters, downpipes, subsoil drains and stormwater drainage for the premises, but does not include any part of a local government’s stormwater drainage.	28 29 30
“trade” means the trade of plumbing and draining.	31
“type specification approval” see section 94.	32

SCHEDULE (continued)

“unregulated work” means plumbing or drainage work prescribed under the Standard Plumbing and Drainage Regulation as unregulated work. 1
2