



Plumbing and Drainage Act 2002

Reprinted as in force on 9 November 2007

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This Act is reprinted as at 9 November 2007. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Dates shown on reprints

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Revised edition indicates further material has affected existing material. For example—

- a correction
- a retrospective provision
- other relevant information.



Queensland

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Plumbing and Drainage Act 2002

[as amended by all amendments that commenced on or before 9 November 2007]

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

Part 1 Preliminary

1 Short title

This Act may be cited as the *Plumbing and Drainage Act 2002*.

2 Commencement

This Act, other than part 15, commences on a day to be fixed by proclamation.

3 Definitions

The dictionary in the schedule defines particular words used in this Act.

4 Act binds all persons

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.

Part 2 Plumbers and Drainers Board

Division 1 Establishment, functions and powers

5 Establishment of board

- (1) The Plumbers and Drainers Board is established.
- (2) The board does not represent the State.

6 Functions of board

- (1) The board's functions are to—
 - (a) administer the licensing system under part 3; and
 - (b) monitor the operation of the licensing system and, if necessary, recommend changes; and
 - (c) promote acceptable standards of competence for the trade; and
 - (d) receive and investigate complaints about work for which a licence is required; and
 - (e) confer on national policy development and implementation for the trade; and
 - (f) report to the Minister on—
 - (i) any issue referred to it by the Minister; or
 - (ii) any issue the board considers the Minister should know about; and
 - (g) perform other functions given to the board under this or another Act.
- (2) In performing its functions, the board must act independently, impartially and in the public interest.

7 Powers of board

- (1) The board has power to do all things reasonably necessary to be done for performing its functions.

- (2) Without limiting subsection (1), the board has the powers given to it under this or another Act.

8 Delegation by board

- (1) The board may delegate its powers to—
- (a) 1 or more members; or
 - (b) the chief executive or other appropriately qualified person in the department.
- (2) However, the board may not delegate its power under this Act to decide to—
- (a) refuse to license an applicant; or
 - (b) refuse to renew a renewable licence; or
 - (c) refuse to restore a renewable licence; or
 - (d) take disciplinary action under part 3, division 7; or
 - (e) change, impose or remove conditions on a licence.

Division 2 Membership

9 Membership of board

The board consists of the following persons appointed by the Governor in Council—

- (a) a representative of each of the following entities—
- (i) the department in which this Act is administered;
 - (ii) the department in which the *Training and Employment Act 2000* is administered;
 - (iii) the department in which the *Health Services Act 1991* is administered;
 - (iv) the Local Government Association of Queensland (Incorporated);
 - (v) the Master Plumbers' Association of Queensland;

- (vi) the Communications, Electrical and Plumbing Union, Plumbing Division, Queensland Branch;
- (b) a representative of consumers.

10 Appointment of deputy members

- (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.
- (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.
- (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.

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

- (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
 - (c) is, or has been, convicted of an offence against this Act, the repealed Act.
- (2) For subsection (1)(a), a person is affected by bankruptcy action if the person—
 - (a) is bankrupt; or
 - (b) has compounded with creditors; or
 - (c) as a debtor, has otherwise taken, or applied to take, advantage of any law about bankruptcy.

14 Vacation of office

A member is taken to have vacated office if the member—

- (a) resigns his or her position on the board by signed notice of resignation given to the Minister; or
- (b) can not continue as a member under section 13; or
- (c) is absent without the board's permission from 3 consecutive meetings of the board of which due notice has been given.

15 When notice of resignation takes effect

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.

16 Leave of absence for members

- (1) The Minister may approve leave of absence of more than 3 meetings for a member.
- (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.
- (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.
- (4) A person appointed under subsection (2) or (3) must represent the entity or interest the member represents.
- (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.

17 Remuneration of members

A member is entitled to be paid the fees and allowances decided by the Governor in Council.

18 Report about person's criminal history

- (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.
- (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.

- (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.
- (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.
- (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.
- (6) In this section—
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.

Division 3 Board business

19 Conduct of business

Subject to this division, the board may conduct its business, including its meetings, in the way it considers appropriate.

20 Times and places of meetings

- (1) Board meetings are to be held at the times and places the chairperson decides.
- (2) However, the chairperson must call a meeting if asked, in writing, to do so by the Minister or 4 members.
- (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.

21 Quorum

A quorum for the board is 4 members.

22 Presiding at meetings

- (1) The chairperson must preside at all meetings of the board at which the chairperson is present.
- (2) If the chairperson is absent from a board meeting, but the deputy chairperson is present, the deputy chairperson must preside.
- (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.

23 Conduct of meetings

- (1) A question at a board meeting is decided by a majority of the votes of the members present.
- (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.
- (3) A member present at the meeting who abstains from voting is taken to have voted for the negative.
- (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.
- (5) A member who takes part in a board meeting under subsection (4) is taken to be present at the meeting.
- (6) A resolution is validly made by the board, even if it is not passed at a board meeting, if—
 - (a) notice of the resolution is given under procedures approved by the board; and
 - (b) a majority of the board members gives written agreement to the resolution.

24 Minutes

- (1) The board must keep—

- (a) minutes of its meetings; and
 - (b) a record of any resolutions made under section 23(6).
- (2) Subsection (3) applies if a resolution is passed at a board meeting.
- (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.

Division 4 Board committees

25 Committees

- (1) The board may establish committees of the board for effectively and efficiently performing its functions.
- (2) A committee may include a person who is not a member.
- (3) The board must decide the terms of reference of a committee.
- (4) The functions of a committee are to—
- (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
 - (b) exercise powers delegated to it by the board.²
- (5) A committee must keep a record of the decisions it makes when exercising a power delegated to it by the board.
- (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.

26 Remuneration of committee members

A committee member is entitled to be paid the fees and allowances decided by the Governor in Council.

² See section 8 (Delegation by board).

Division 5 Disclosure of interests by board members and committee members

27 Disclosure of interests

- (1) This section applies to a board or committee member (the *interested person*) if—
 - (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
 - (b) the interest could conflict with the proper performance of the person's duties about the consideration of the matter.
- (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.
- (3) Unless the board or committee otherwise directs, the interested person must not—
 - (a) be present when the board or committee considers the matter; and
 - (b) take part in a decision of the board or committee about the matter.
- (4) The interested person must not be present when the board or committee is considering whether to give a direction under subsection (3).
- (5) If there is another member who must, under subsection (2), also disclose an interest in the matter, the other member must not—
 - (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.
- (4) The board must comply with the direction.

Division 7 Other provisions about the board

29 Officers, employees and agents

- (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.
- (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.
- (3) The secretary has the powers and must perform the functions of the secretary under this Act.
- (4) Without limiting subsection (3), the secretary must ensure minutes of the board's meetings are kept.
- (5) The chief executive may, by instrument, employ or engage other appropriately qualified persons to help the board perform its functions.
- (6) Subsection (5) does not apply for the appointment of an investigator.³

29A Delegation by secretary

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

30 Authentication of documents

A document made by the board is sufficiently made if it is signed by the secretary.

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

31 Protection of members from civil liability

- (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.
- (2) If subsection (1) prevents a civil liability attaching to the member or person, the liability attaches instead to the State.

32 Revenue from fees

- (1) Revenue received by the board from fees fixed under a regulation must be deposited in—
 - (a) a financial-institution account of the department; or
 - (b) an account used for depositing other amounts of the department.
- (2) Accounts for the revenue must be kept as part of the accounts of the department.
- (3) Revenue received under subsection (1) must be applied toward the administration of this Act.
- (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.

33 Report on the board's operations

- (1) The board must give the chief executive a written report on its operations each year.
- (2) The report must include copies of all Ministerial directions given to the board under section 28 during the year.
- (3) However, the board must exclude from the copies mentioned in subsection (2) all information likely to identify a person mentioned in the direction.

Division 8 Board investigators and their powers

Subdivision 1 Investigators

33A Appointment

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

33B Function

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

33C Appointment conditions and limit on powers

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

33D Issue of identity card

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

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

33E Production or display of identity card

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

33F When investigator ceases to hold office

- (1) An investigator ceases to hold office if any of the following happens—
- (a) the term of office stated in a condition of office ends;
 - (b) under another condition of office, the investigator ceases to hold office;
 - (c) the investigator's resignation under section 33G takes effect.
- (2) Subsection (1) does not limit the ways an investigator may stop holding office.

4 Section 33I (Power to enter places)

(3) In this section—

condition of office means a condition on which the investigator holds office.

33G Resignation

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

33H Return of identity card

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

Maximum penalty—25 penalty units.

Subdivision 2 Entry to places

33I Power to enter places

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

33J Entry with consent

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

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

33K Application for warrant

- (1) An investigator may apply to a magistrate for a warrant for a place.

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

Example for subsection (4)—

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

33L Issue of warrant

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

- (f) the magistrate's name; and
- (g) the date and time of the warrant's issue; and
- (h) the date, within 14 days after the warrant's issue, the warrant ends.

33M Application by electronic communication and duplicate warrant

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

5 Section 33K (Application for warrant)

Plumbing and Drainage Act 2002

- (i) the magistrate must tell the investigator the date and time the warrant is issued and the other terms of the warrant; and
 - (ii) the investigator must complete a form of warrant, including by writing on it—
 - (A) the magistrate's name; and
 - (B) the date and time the magistrate issued the warrant; and
 - (C) the other terms of the warrant.
- (5) The copy of the warrant mentioned in subsection (4)(a), or the form of warrant completed under subsection (4)(b) (in either case the *duplicate warrant*) is a duplicate of, and as effectual as, the original warrant.
- (6) The investigator must, at the first reasonable opportunity, send to the magistrate—
 - (a) the written application complying with 33K(2) and (3); and
 - (b) if the investigator completed a form of warrant under subsection (4)(b)—the completed form of warrant.
- (7) The magistrate must keep the original warrant and, on receiving the documents under subsection (6)—
 - (a) attach the documents to the original warrant; and
 - (b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.
- (8) Despite subsection (5), if—
 - (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and
 - (b) the original warrant is not produced in evidence;
the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.
- (9) This section does limit section 33K.

(10) In this section—

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

33N Defect in relation to a warrant

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

(2) In this section—

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

33O Warrants—procedure before entry

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

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

(a) identify himself or herself to a person present at the place who is an occupier of the place by producing a copy of the investigator's identity card, or having the identity card displayed, as mentioned in section 33E(1);⁶

(b) give the person a copy of the warrant;

(c) tell the person the investigator is permitted by the warrant to enter the place;

(d) give the person an opportunity to allow the investigator immediate entry to the place without using force.

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

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

(4) In this section—

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

Subdivision 3 Powers of investigators

33P General powers of investigator after entering places

- (1) This division applies to an investigator who enters a place under section 33I(1).⁷
- (2) For performing the investigator's function under this Act,⁸ the investigator may do any of the following—
 - (a) search any part of the place;
 - (b) inspect, measure, test, photograph or film any part of the place or anything at the place;
 - (c) copy, or take an extract from, a document at the place;
 - (d) take into or onto the place any person, equipment and materials the investigator reasonably requires for exercising a power under paragraphs (a) to (c).

33Q Power to require reasonable help or information

- (1) The investigator may require the occupier of the place, or a person at the place, to give the investigator, reasonable help or information to exercise a power under section 33P(2).
- (2) When making a requirement under subsection (1), the investigator must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.
- (3) A person of whom a requirement under subsection (1) has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

7 Section 33I (Power to enter places)

8 See section 33B (Function).

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

33R Power to require name and address

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

33S Power to require production of documents

- (1) The investigator may require a person to make available for inspection by an investigator, or produce to the investigator for inspection, at a reasonable time and place nominated by the investigator, a document given to the person under this Act.
- (2) The investigator may ask the person to give the investigator a copy of the document within a reasonable period.

- (3) If a request under subsection (2) is not complied with within a reasonable period, the investigator may take the document to copy it.
- (4) The investigator must return the document to the person as soon as practicable after copying it.

33T Failure to state name and address or produce document

- (1) A person of whom a requirement under section 33R(2) or 33S(1) has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (2) It is a reasonable excuse for an individual not to comply with the requirement if complying with it might tend to incriminate the individual.
- (3) Subsection (2) does not limit what may be a reasonable excuse under subsection (1).

Subdivision 4 Miscellaneous provisions

33U Notice of damage

- (1) This section applies if—
 - (a) an investigator damages property when exercising or purporting to exercise a power; or
 - (b) a person (the *other person*) acting under the direction of an investigator damages property.
- (2) The investigator must, as soon as practicable, give written notice of particulars of the damage to a person who appears to the investigator to be an owner of the property.
- (3) If the investigator believes the damage was caused by a latent defect in the property or circumstances beyond the investigator's or other person's control, the investigator may state the belief in the notice.
- (4) If, for any reason, it is impracticable to comply with subsection (2), the investigator must leave the notice in a

conspicuous position and in a reasonably secure way where the damage happened.

- (5) This section does not apply to damage the investigator reasonably believes is trivial.
- (6) In this section—
owner, of property, includes the person in possession or control of it.

33V Compensation

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

Part 3 Licensing

Division 1 Classes of licences

34 Classes of licences

- (1) The board may issue the following classes of licences—
 - (a) a plumbers licence;
 - (b) a drainers licence;

- (c) a restricted licence.⁹
- (2) Also, the board may issue a provisional licence for any class of licence mentioned in subsection (1).

35 Work that may be performed under licences

- (1) The holder of a plumbers licence may only perform plumbing work for which the licence is issued.
- (2) The holder of a drainers licence may only perform drainage work for which the licence is issued.
- (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.
- (4) The holder of a provisional licence may only perform plumbing or drainage work for which the licence is issued.

Division 2 Applying for, and issue of, licences

36 Procedural requirements for application

- (1) An application for a licence must—
 - (a) be made to the board; and
 - (b) be in the approved form; and
 - (c) be accompanied by—
 - (i) satisfactory evidence of relevant practical experience and qualifications; and
 - (ii) the fee prescribed under a regulation; and
 - (iii) any other documents, identified in the approved form, the board reasonably requires; and
 - (iv) if the applicant is licensed by an interstate or the New Zealand licensing authority, written details of any conditions of the licence.

⁹ Also, see section 41 (Imposing conditions on licence).

- (2) Information in the application must, if the approved form requires, be verified by a statutory declaration.

37 Entitlement to licence

An individual is entitled to a licence if the board is, on application by the individual, satisfied the individual—

- (a) has the qualifications and practical experience required by regulation for the licence; and
- (b) has not had an interstate or New Zealand licence suspended or cancelled.

38 Inquiries into application

- (1) Before deciding the application, the board may—
- (a) investigate the applicant, including whether or not the applicant has been convicted of an offence against this Act or the repealed Act; and
 - (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
 - (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.
- (2) The board may require the information or document mentioned in subsection (1)(b) to be verified by a statutory declaration.
- (3) The purpose of an examination under subsection (1)(c) must be to assess the applicant's ability to competently practise the trade.
- (4) The applicant is taken to have withdrawn the application if, within the stated time, the applicant—
- (a) does not comply with a requirement under subsection (1)(b); or

- (b) does not undergo an examination under subsection (1)(c).
- (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.

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
 - (b) provisionally license the applicant for the class of licence applied for; or
 - (c) refuse to license the applicant.
- (2) The board may act under subsection (1)(b) only if—
 - (a) the applicant has not had an interstate or New Zealand licence suspended or cancelled; and
 - (b) at least 1 of the following applies—
 - (i) the board reasonably considers the applicant needs more practical experience before being licensed;
 - (ii) the board reasonably considers the applicant does not have the qualifications required under section 37(a),¹⁰ but does have enough practical experience to be able to perform work under the provisional licence;
 - (iii) the board reasonably considers the applicant holds a relevant corresponding licence;
 - (iv) the board reasonably considers the applicant has the qualifications and experience required under section 37(a), but evidence of them has not been given to the board.
- (3) However, subsection (2)(a) does not apply if the applicant holds an interstate or New Zealand licence that is in force.

¹⁰ Section 37 (Entitlement to licence)

(4) In this section—

relevant corresponding licence means any of the following—

- (a) an interstate or New Zealand licence;
- (b) a licence, however called, issued in another country, that allows the applicant to perform part of the work to which the licence application relates.

41 Imposing conditions on licence

- (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.
- (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.

42 Steps to be taken after application decided

- (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.
- (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.
- (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.

43 Failure to decide application

- (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) Subsection (3) applies if the board has—
 - (a) under section 38(1)(b), required the applicant to give the board further information or a document; or
 - (b) under section 38(1)(c), required the applicant to undergo an examination.
- (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—
 - (a) the day that is 40 business days after the board receives the further information or document;
 - (b) the day that is 40 business days after the board receives the results of the examination.
- (4) This section is subject to section 39.

44 Form of licence

- (1) A licence must be in the approved form.
- (2) The approved form must provide for—
 - (a) the licensee's name and address; and
 - (b) the expiry date of the licence; and
 - (c) the licence number; and
 - (d) the licence class; and
 - (e) any conditions attached to the licence.

45 Duration of licence

- (1) A licence remains in force for the period stated in it.
- (2) The period mentioned in subsection (1) must not be more than—
 - (a) for a provisional licence—1 year; or
 - (b) for any other licence—5 years.

Division 3 Upgrading provisional licences

46 Board may upgrade provisional licence

- (1) Subsection (2) applies if—
 - (a) an individual applied for a licence; and
 - (b) the board gave the individual a provisional licence instead of the licence the individual applied for; and
 - (c) the provisional licence has not expired; and
 - (d) the provisional licensee satisfies the board about a matter that caused the board to give the provisional licence rather than the licence.
- (2) The board may, under division 2, license the applicant, with or without the conditions originally applied for.
- (3) The provisional licence is cancelled when the licence applied for is issued.

Division 4 Renewing licences

47 Notice of expiry of licence

The board must give each licensee notice of the expiry of the licensee's licence at least 40 business days before its expiry.

48 Procedural requirements for applications to renew a licence

- (1) A licensee, other than a provisional licensee, may apply to the board for the renewal of the licensee's licence.
- (2) The application must be—
 - (a) made after the notice under section 47 is given to the licensee and before the licence expires; and
 - (b) in the approved form; and
 - (c) accompanied by—
 - (i) the fee prescribed under a regulation; and

- (ii) any documents, identified in the approved form, the board reasonably requires to decide the application.
- (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—
 - (a) the applicant is retired; and
 - (b) the applicant no longer performs plumbing or drainage work for payment; and
 - (c) the applicant does not intend to perform plumbing or drainage work for payment.

49 Existing licence taken to be in force while application is considered

- (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).
- (2) Subsection (1) does not apply if the licence is earlier suspended under this Act.

50 Steps to be taken after application made

- (1) If the application complies with section 48, the board must, as soon as practicable, issue a new licence to the applicant.
- (2) The licence issued under subsection (1) must be subject to the same conditions as the licence that expired.
- (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.

Division 5 Restoring expired licences

51 When application to restore licence may be made

- (1) If a licence has expired, the person who was the licensee for the licence may ask the board to restore the licence.
- (2) The application to restore the licence must be made within 1 year after the day the licence expired.

52 Procedural requirements for applications to restore licence

- (1) The application must—
 - (a) be in the approved form; and
 - (b) be accompanied by—
 - (i) the fee prescribed under a regulation; and
 - (ii) any documents, identified in the approved form, the board reasonably requires to decide the application.
- (2) Information in the application must, if the approved form requires, be verified by a statutory declaration.

53 Previous conditions continue for expired licence

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.

54 How division 4 applies for applying to restore licence

For restoring a licence, division 4 applies as if—

- (a) an application for renewal of a licence were an application for restoration of a licence; and
- (b) an applicant for renewal of a licence were an applicant for restoration of a licence; and
- (c) a renewal of a licence were a restoration of a licence.

Division 6 Reviewing licence conditions

55 How licensee may start review

- (1) A licensee whose licence is subject to conditions may apply to the board for a review of the conditions.
- (2) However, the application must not be made—
 - (a) during the review period applying to the conditions; or
 - (b) if the licensee has applied to the Commercial and Consumer Tribunal for a review of the conditions— while the decision to impose the conditions is being reviewed by the Commercial and Consumer Tribunal.
- (3) The application must—
 - (a) be in the approved form; and
 - (b) be accompanied by the fee prescribed under a regulation.
- (4) The approved form must require the licensee to state—
 - (a) that the licensee believes the conditions are no longer appropriate; and
 - (b) the reason for the licensee's belief.
- (5) The board must consider the application and make a decision under section 59.

56 Reviewing conditions during review period

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

57 Board's powers before making decision

- (1) Before making its decision under section 59, the board—
 - (a) may investigate the licensee; and

- (b) may, by notice given to the licensee, require the licensee 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 make the decision.
- (2) A notice under subsection (1)(b) must be given to the licensee within 20 business days after the board agrees with the licensee to review the conditions.
- (3) The board may require the information or document mentioned in subsection (1)(b) to be verified by a statutory declaration.

58 Deemed withdrawal of application etc.

- (1) Subsections (2) and (3) apply if the conditions are being reviewed because of an application made by the licensee under section 55.
- (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).
- (3) A notice under section 57(1)(b) must be given to the licensee within 40 business days after the board receives the application.
- (4) Subsection (5) applies if the conditions are being reviewed under section 56.
- (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).

59 Decision on review of conditions

- (1) After reviewing the conditions, the board must decide to—
 - (a) confirm the conditions; or
 - (b) remove the conditions; or
 - (c) change the conditions.

- (2) In making its decision, the board must consider whether the conditions remain necessary or desirable for the licensee to competently practise the trade.
- (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.
- (4) If the board decides to confirm or change the conditions, it must as soon as practicable—
 - (a) also decide the review period applying to the confirmed or changed conditions; and
 - (b) give the licensee an information notice about the decision.
- (5) If the board decides to remove the conditions, it must as soon as practicable give the licensee notice of the decision.

60 When decision takes effect

- (1) If the board decides to confirm the conditions, the decision takes effect when it is made.
- (2) If the board decides to change the conditions, the change—
 - (a) takes effect when an information notice about the decision is given to the licensee under section 59(4)(b); and
 - (b) does not depend on—
 - (i) the licence being amended to record the change; or
 - (ii) a replacement licence being issued.
- (3) If the board decides to remove the conditions, the removal—
 - (a) takes effect when notice of the decision is given to the licensee under section 59(5); and
 - (b) does not depend on—
 - (i) the licence being amended to record the removal; or
 - (ii) a replacement licence being issued.

61 Failure by board to make decision on application

- (1) Subject to subsections (2) and (3), if the board fails to decide an application under section 55¹¹ within 40 business days after its receipt, the failure is taken to be a decision by the board to confirm the conditions.
- (2) Subsection (3) applies if the board has under section 57(1)(b),¹² required the applicant to give the board further information or a document.
- (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.

62 Failure by board to make decision on review agreed to under s 56

- (1) Subject to subsections (2) and (3), if the board fails to make a decision on a review agreed to under section 56¹³ within 40 business days after the agreement, the failure is taken to be a decision by the board to confirm the conditions.
- (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.
- (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.

63 Amendment of, or replacing, licence

- (1) This section applies if—
 - (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

11 Section 55 (How licensee may start review)

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

13 Section 56 (Reviewing conditions during review period)

- (b) a licensee receives a notice, under section 59(5), about a decision to remove a condition of the licensee's licence.
- (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.
Maximum penalty—10 penalty units.
- (3) On receiving the licence, the board must—
 - (a) amend the licence in an appropriate way and return the amended licence to the licensee; or
 - (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.

Division 7 Disciplinary action

64 Grounds for discipline

The board may take disciplinary action against a licensee if the board is satisfied the licensee has—

- (a) obtained the licensee's licence because of a materially false or misleading representation or declaration; or
- (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
- (c) directed or allowed another licensee to perform work—
 - (i) the other licensee is authorised to carry out under his or her licence; and
 - (ii) in a way that does not conform with the appropriate standards; or
- (d) directed or allowed a person to perform work in contravention of section 119; or
- (e) directed someone else to perform work, or supervised someone else in the performance of work, in

- contravention of section 120;¹⁴ or
- (f) has performed work—
 - (i) that is not work for which the licensee's licence was issued; and
 - (ii) for which a licence is required; or
 - (g) had the licensee's interstate or New Zealand licence conditioned, suspended or cancelled; or
 - (h) been convicted of an offence against this Act or the repealed Act.

65 Disciplinary action that may be taken

- (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.
- (2) The board may, for example, do any 1 or more of the following—
 - (a) reprimand the licensee;
 - (b) for plumbing or drainage work—order the work to be rectified in accordance with the Standard Plumbing and Drainage Regulation;
 - (c) impose new conditions, or change conditions, on the licence;
 - (d) suspend the licensee's licence for the period decided by the board;
 - (e) cancel the licensee's licence.

66 Show cause notice

- (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) The show cause notice must—

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

- (a) state the ground for proposing to act under section 65(2); and
 - (b) outline the facts and circumstances forming the basis for the ground; and
 - (c) invite the licensee to show within a stated period (the *show cause period*) why the action should not be taken.
- (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.

67 Representations about show cause notice

- (1) The licensee may make written representations about the show cause notice to the board in the show cause period.
- (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.
- (3) The board must consider all representations (the *accepted representations*) made under subsection (1) or (2).

68 Board must decide action to be taken

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

- (a) take no further action about the matter; or
- (b) take disciplinary action against the licensee.

69 Board must advise licensee of its decision

- (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.
- (2) If the board decides to take disciplinary action against the licensee, the board must give the licensee an information notice.

70 When suspension or cancellation takes effect

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.

71 Returning suspended or cancelled licence to board

- (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.

Maximum penalty—10 penalty units.

- (2) If the licence is suspended, the board must return the licence to the licensee as soon as practicable after the suspension period.

Division 8 General provisions about licences**72 Surrendering licence**

- (1) A licensee may surrender the licensee's licence by notice given to the board.
- (2) The surrender takes effect—
 - (a) on the day the notice is given to the board; or
 - (b) if a later day of effect is stated in the notice, on the later day.
- (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.

Maximum penalty for subsection (3)—10 penalty units.

73 Replacing licence

- (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.

- (2) The application must be—
 - (a) made to the board; and
 - (b) in the approved form; and
 - (c) accompanied by the fee prescribed under a regulation.
- (3) Information in the application must, if the approved form requires, be verified by a statutory declaration.
- (4) If the board is satisfied the licence has been lost, stolen or destroyed, or damaged, the board must—
 - (a) replace the lost, stolen, destroyed or damaged licence with another licence; and
 - (b) give the replacement licence to the applicant.

74 Certified copy of licence

A licensee may, on payment of the fee prescribed under a regulation, obtain from the board a certified copy of the licensee's licence.

75 Notice of change in circumstances

- (1) Subsection (2) applies if the licensee—
 - (a) changes the licensee's address; or
 - (b) holds an interstate or New Zealand licence and the licence is conditioned, suspended or cancelled; or
 - (c) is convicted of an offence against this Act or the repealed Act.
- (2) The licensee must give the board written notice of the matter.
Maximum penalty—
 - (a) if the offence relates to subsection (1)(a)—1 penalty unit; or
 - (b) if the offence relates to subsection (1)(b) or (c)—10 penalty units.
- (3) The notice must be given to the board within 20 business days after the change.

76 Notice of certain events to interstate licensing authorities and other entities

- (1) This section applies if—
 - (a) a licence is cancelled under this Act; or
 - (b) conditions are imposed, under this Act, on a licence; or
 - (c) conditions on a licence are removed under this Act.
- (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.
- (3) Also, the board may give notice about the event to any of the following—
 - (a) professional or industry associations of which the licensee is eligible to be a member;
 - (b) an employer of the licensee;
 - (c) another entity having a connection with the trade.
- (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.
- (5) A notice under this section may include the information the board considers appropriate in the circumstances.

77 Register of licences

The board must keep a register of all licences and matters affecting licences.

Part 4 Compliance assessment

Division 1 Preliminary

78 Compliance permit

- (1) A *compliance permit* authorises regulated work or on-site sewerage work to be carried out—
 - (a) to the extent stated in the permit; and
 - (b) subject to any conditions for achieving compliance.
- (2) A compliance permit has effect for—
 - (a) the period prescribed under a regulation; or
 - (b) if no period is prescribed under paragraph (a)—2 years from the day the compliance permit was given.
- (3) However, if the regulated work or on-site sewerage work starts while the compliance permit has effect, the permit continues to have effect.
- (4) A compliance permit attaches to the land, the subject of the permit, and binds the owner, the owner's¹⁵ successors in title and any occupier of the land.

79 Compliance certificate

- (1) A *compliance certificate* approves regulated work or on-site sewerage work to the extent stated in the certificate.
- (2) Subject to sections 86D(3) and 86E to 86G, a compliance certificate has effect until the premises to which certificate relates are demolished or removed.

¹⁵ See also section 116(3)(b) (Enforcement notices).

- (3) A compliance certificate attaches to the land the subject of the certificate, and binds the owner, the owner's successors in title and any occupier of the land.¹⁶

Division 2 Compliance assessment generally

80 Purpose of compliance assessment

The purpose of compliance assessment is to allow for—

- (a) a plan about particular proposed regulated work or on-site sewerage work to be assessed for compliance with the Standard Plumbing and Drainage Regulation and a compliance permit to be issued for the plan; and
- (b) regulated work or on-site sewerage work to be assessed for compliance with the Standard Plumbing and Drainage Regulation and a compliance certificate to be issued for the work.

81 Regulated work and on-site sewerage work must be assessed for compliance

Regulated work and on-site sewerage work must be assessed for compliance with the Standard Plumbing and Drainage Regulation.

82 Plans and all plumbing and drainage work or on-site sewerage work must comply

- (1) A person who carries out any plumbing or drainage work or on-site sewerage work must ensure the work complies with the Standard Plumbing and Drainage Regulation.

Maximum penalty—165 penalty units.

- (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.

¹⁶ See also section 128B (Owner's obligation to ensure compliance with conditions of compliance certificate).

83 Compliance permit required for certain regulated work or any on-site sewerage work

- (1) Subject to subsection (2), a person must not carry out regulated work or on-site sewerage work unless the person has a compliance permit for the work and complies with any conditions of the permit.

Maximum penalty—1665 penalty units.

- (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.
- (3) If a local government makes a resolution for subsection (2), the local government must—
- (a) give a copy of the resolution to the chief executive; and
 - (b) ensure a copy of it is open to inspection under the *Local Government Act 1993*.

84 Regulated work or on-site sewerage work by a public sector entity

- (1) This section applies to plans for regulated work or on-site sewerage work and regulated work or on-site sewerage work carried out by, or for, a public sector entity.
- (2) The entity must—
- (a) carry out compliance assessment of the plans or work; or
 - (b) request the local government to carry out the compliance assessment.
- (3) If the entity or the local government is satisfied the plans or work comply with the Standard Plumbing and Drainage Regulation, the entity or local government must issue—
- (a) for a plan—a compliance permit; or
 - (b) for work—a compliance certificate.
- (4) If the entity issues the permit or certificate, it must give a copy to the local government.

Division 3 Assessing plans

85 Process for assessing plans

- (1) This section applies, subject to sections 85B to 85E, to a request (a ***compliance request***) for compliance assessment of a plan for regulated work or on-site sewerage work.
- (2) A compliance request must be—
 - (a) in the approved form; and
 - (b) made to the local government; and
 - (c) accompanied by the fee fixed by resolution of the local government.
- (3) The local government may give the person making the request, a written notice (an ***information request***), requesting further information needed to assess the plan.
- (4) An information request must be made within 10 business days after the plan is received.
- (5) The compliance request must be decided within 20 business days—
 - (a) if an information request is not made—after receiving the compliance request; or
 - (b) if an information request is made—after receiving the information requested.
- (6) The local government must in deciding the compliance request—
 - (a) give the person making the request a compliance permit; or
 - (b) refuse to give a compliance permit.
- (7) A compliance permit may be given on reasonable and relevant conditions decided by the local government for achieving compliance.

Example—

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

- (8) 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.
- (9) If the local government does not decide the compliance request within the time stated in subsection (5), the request is taken to have been refused.
- (10) 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.¹⁷
- (11) If an information request is made and the local government does not receive the information requested within the following period, the compliance request lapses—
 - (a) generally—1 year after the request was made;
 - (b) if, within the year, the local government agrees to a longer period—the longer period.
- (12) If the compliance request lapses under subsection (11), the fee that accompanied the application is not refundable.

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

- (1) This section applies to a compliance request only to the extent it is for regulated work for, or that includes, a greywater use facility in a sewered area.¹⁸
- (2) A compliance permit may be granted for the work only if—
 - (a) the premises at which the facility is proposed to be installed—
 - (i) is—

17 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.

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

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- (A) classified under the Building Code of Australia as a class 1a building;¹⁹ or
- (B) being used, or proposed to be used, for a use prescribed under the Standard Plumbing and Drainage Regulation; and
- (ii) generates greywater of less than 3000L a day; and
- (iii) is not part of a community titles scheme under the *Body Corporate and Community Management Act 1997*; and
- (b) either—
 - (i) the facility’s greywater treatment plant has a chief executive approval; or
 - (ii) the facility’s greywater diversion device has plumbing code authorisation and certification; and
- (c) the facility’s greywater treatment plant and greywater diversion device have a connection to sanitary drainage; and
- (d) greywater can be diverted to sanitary drainage by a manual diversion device; and
- (e) greywater can automatically overflow to sanitary drainage if the facility’s filtering or irrigation system does not work or does not work properly.
- (3) In making the resolution or instrument or deciding an application for a compliance permit, the local government must consider any criteria prescribed under the Standard Plumbing and Drainage Regulation.

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

‘Classifications

Buildings are classified as follows:...

Class 1a—a single dwelling being—

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

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

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

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

- (1) This section applies to a compliance request for on-site sewerage work other than work that is for, or includes, a greywater use facility.
- (2) A compliance permit may be granted for the on-site sewerage work only if—
 - (a) either—

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

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

- (1) This section applies for assessing a compliance request for work for testing purposes.
- (2) The period of 10 business days under section 85(4) is changed to 20 business days.
- (3) Subsections (4) and (5) apply instead of section 85(5) and apply for the time mentioned in section 85(9).
- (4) The compliance request must be decided within—
 - (a) generally, the period (the *usual period*) that ends 40 business days after—

- (i) if an information request is not made—receipt of the compliance request; or
 - (ii) if an information request is made—receipt of the information requested; or
 - (b) if, within the usual period, the local government decides to extend the decision period to a longer period—the extended period.
- (5) The extended period must not end more than 40 business days after the usual period.

Division 4 Assessing plumbing and drainage work and on-site sewerage work

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

- (1) This section applies, subject to sections 86B and 86C, for assessing the following work (the *work*)—
 - (a) regulated work other than regulated work mentioned in section 86A(1);
 - (b) on-site sewerage work.
- (2) A request for compliance assessment of the work must be—
 - (a) in the approved form; and
 - (b) made to the local government; and
 - (c) accompanied by the fee fixed by resolution of the local government.
- (3) A request to assess the work at a particular stage may be made by phone or electronically.
- (4) However, a request for compliance assessment that is for, or that includes, a greywater use facility for testing purposes may be made only if a testing approval has been granted for the facility.
- (5) The local government must assess the work at the stages prescribed under the Standard Plumbing and Drainage Regulation.

- (6) However, if the work is on-site sewerage work, the local government may decide not to carry out the assessment if an approved person for the assessment gives it a notice (a ***notice of compliance***) in the approved form verifying that the work complies with—
 - (a) the relevant compliance permit; and
 - (b) the Standard Plumbing and Drainage Regulation.
- (7) After assessing the work or, if a notice of compliance is given, the giving of the notice, the local government may ask the person making the request to supply a plan of the assessed work.
- (8) The request for compliance assessment must be decided within 3 business days—
 - (a) if the local government has not requested a plan of the assessed work—after assessing the completed work; or
 - (b) if the local government has requested a plan of the assessed work—after receiving the plan.
- (9) The local government must in deciding the request—
 - (a) give the person making the request a compliance certificate; or
 - (b) refuse to give a compliance certificate.
- (10) 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.
- (11) If the local government does not decide the request within the time stated in subsection (8), the request is taken to have been refused.
- (12) 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.²⁰

²⁰ 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.

(13) In this section—

approved person, for assessment of on-site sewerage work, means the person who designed the on-site sewerage facility to which the work relates and who—

- (a) in the local government's opinion, is competent to give a notice of compliance; and
- (b) if the person is required by law to be registered or licensed under a law applying in the State to practise in the aspect of the work—is so registered or licensed.

86A Process for assessing certain regulated work or on-site sewerage work in remote areas

- (1) Subsection (2) applies for regulated work or on-site sewerage work—
 - (a) to be carried out in an area prescribed under a regulation as a remote area; and
 - (b) the local government has, by resolution, declared it is satisfied that in the absence of assessment of the work at the stages prescribed under a regulation by an inspector will not adversely affect public health or safety.
- (2) A request for compliance assessment of the work must be—
 - (a) in the approved form; and
 - (b) made to the local government; and
 - (c) accompanied by the fee fixed by resolution of the local government.
- (3) After the work has been completed the local government—
 - (a) must be given a notice stating that the work complies with the requirements of the Standard Plumbing and Drainage Regulation; and
 - (b) may ask the person who made the request to provide a plan of the completed work.
- (4) The request must be decided within 3 business days—
 - (a) if the local government has not requested a plan of the work—after receiving the notice; or

- (b) if the local government has requested a plan of the work—after receiving the plan.
- (5) The local government must in deciding the request—
 - (a) give the person making the request a compliance certificate; or
 - (b) refuse to give a compliance certificate.
- (6) 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.
- (7) If the local government does not decide the request within the time stated in subsection (4), the request is taken to have been refused.
- (8) 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.²¹
- (9) If a local government makes a resolution for subsection (1), the local government must—
 - (a) give a copy of the resolution to the chief executive; and
 - (b) ensure a copy of it is open to inspection under the *Local Government Act 1993*.

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

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

²¹ 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.

- (b) if the local government has asked for the plan—after it receives the plan.

86C Conditions of compliance certificate

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

Example—

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

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

Examples—

- 1 A condition could require the owner of the relevant premises to do all or any of the following—
- keep an area of land (commonly called a 'land application area') in reserve for the future replacement of effluent disposal in relation to the facility
 - maintain any grease arrester for the premises in a stated way
 - have in place an arrangement for the carrying out of stated maintenance of the relevant on-site sewerage facility with a person who can lawfully do so
 - replace a part of the facility at stated intervals.
- 2 If the relevant on-site sewerage facility includes a sewage treatment plant, a condition could require the owner of the relevant premises not to dispose of effluent from the plant by spraying or in another way that produces aerial mists or sprays.

Division 4A Compliance certificates

86D Effect of later grant of chief executive approval

- (1) This section applies if—

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

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

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

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

86F Ending of particular compliance certificates for testing

A compliance certificate given for work for testing purposes ceases to have effect if any chief executive approval for an item that relates to the work ends.²²

²² For when chief executive approval ends, see section 96 (Term of chief executive approval).

86G Power to amend conditions of particular compliance certificates

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

Division 4B Minor and unregulated work**87 Minor work**

- (1) This section applies for minor work, prescribed under the Standard Plumbing and Drainage Regulation as notifiable minor work, that has been completed.
- (2) The following person must, in the way and at the time required under this section, give the local government notice of the work—
 - (a) if it was carried out by or for an entity (a *relevant entity*) that is a public sector entity or an entity mentioned in section 89(2)—the relevant entity;
 - (b) otherwise—the person who carried out the work.Maximum penalty—10 penalty units.
- (3) For a relevant entity, the notice must be written.
- (4) For another person, the notice must be in the approved form.

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

88 Unregulated work

If a person carries out unregulated work, the person need not notify the local government about the work.

Division 5 Standard Plumbing and Drainage Regulation

89 Administration of Standard Plumbing and Drainage Regulation

- (1) Each local government must administer the Standard Plumbing and Drainage Regulation for its area.
- (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.
- (3) Subsection (4) applies if—
 - (a) an area within a local government's area is not under the local government's control; or
 - (b) an area adjoining a local government's area is not part of a local government area.
- (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.

90 Standard Plumbing and Drainage Regulation may prescribe additional requirements and actions

The Standard Plumbing and Drainage Regulation may prescribe—

- (a) requirements for a plan mentioned in section 85, 86 or 86A; or
- (b) additional actions that may, or must, be taken by the local government.

Part 5 Chief executive approvals**Division 1 Applying for and obtaining approval****91 Applying for chief executive approval**

- (1) A person may, in the approved form, apply to the chief executive for an approval (a *chief executive approval*) for—
 - (a) an on-site sewage treatment plant or greywater treatment plant if all of the plant is built on the premises where it is, or is to be, used; or
 - (b) an element of an on-site sewage treatment plant or greywater treatment plant, if all of the element is built on the premises where the plant is, or is to be, used; or
 - (c) a wholly prefabricated on-site sewage treatment plant or greywater treatment plant; or
 - (d) a prefabricated element of an on-site sewage treatment plant or greywater treatment plant; or
 - (e) an on-site sewage treatment plant or greywater treatment plant or element of an on-site sewage treatment plant or greywater treatment plant mentioned in paragraphs (a) to (d) if the plant is proposed to be installed only for testing purposes.
- (2) However, a person can not apply for a chief executive approval for a chemical, composting or incinerating toilet.

92 Information request

- (1) The chief executive may give the applicant a written notice (an *information request*) requesting further information from the applicant needed to decide the application.
- (2) An information request must be made within 20 business days after the application is received.
- (3) However, if information is given under an information request made within the 20 business days, another information request may be made within 20 business days after the information is received.
- (4) If an information request is made and the chief executive does not receive the information requested within the following period, the application lapses—
 - (a) generally—1 year after the request was made;
 - (b) if, within the year, the chief executive agrees to a longer period—the longer period.

93 Deciding application

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

- (3) Also, if the item the subject of the application is a greywater use facility or on-site sewerage facility, the chief executive may refuse the application but decide to give a testing approval for the item.

94 Conditions of approval

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

Example—

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

- evidence of the approval
 - details of the model of the plant
 - instructions for its building or manufacture, installation, operation, and maintenance.
- (2) If the item the subject of the approval is an on-site sewerage facility, the conditions may authorise the dismantling or taking away of all or part of the installed facility.²³

95 Information notice

If the chief executive decides to refuse the application or issue an approval with conditions, the chief executive must, as soon as practicable, give the applicant an information notice about the decision.²⁴

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

24 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.

Division 2 Miscellaneous provisions

96 Term of chief executive approval

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

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

97 Renewals

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

98 Publication of chief executive approvals

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

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

Part 6 Investigation and enforcement by local governments

Division 1 Inspectors

107 Appointment and qualifications

- (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.
- (2) A local government must—
 - (a) advise the board of each appointment it makes under subsection (1); and
 - (b) within 20 business days after 1 July in each year, give the board a list of its inspectors as at that date.

108 Appointment conditions and limit on powers

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

signed notice means a notice signed by the chief executive officer of the local government.

109 Issue of identity card

- (1) The local government must issue an identity card to each inspector.
- (2) The identity card must—

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

110 Production or display of identity card

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

111 When inspector ceases to hold office

- (1) An inspector ceases to hold office if any of the following happens—
- (a) the term of office stated in a condition of office ends;
 - (b) under another condition of office, the inspector ceases to hold office;
 - (c) the inspector's resignation under section 112 takes effect.
- (2) Subsection (1) does not limit the ways an inspector may cease to hold office.

- (3) In this section—

condition of office means a condition on which the inspector holds office.

112 Resignation

- (1) An inspector may resign by signed notice given to the chief executive officer of the local government.
- (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.

113 Return of identity card

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.

Maximum penalty—25 penalty units.

114 Functions and powers of inspectors and relationship to the Local Government Act 1993

- (1) An inspector's functions are to conduct investigations and inspections for monitoring and enforcing compliance with—
- (a) this Act; or
 - (b) the *Integrated Planning Act 1997*; or
 - (c) the *Local Government Act 1993*.
- (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 or an on-site sewerage facility on premises.
- (3) For performing an inspector's functions, the inspector—
- (a) has the powers of an authorised person under the *Local Government Act 1993*, section 1084²⁵ and a reference in chapter 15, part 5 of that Act to an authorised person is,

²⁵ *Local Government Act 1993*, section 1084 (Appointment)

for this Act, taken to be a reference to an inspector under this Act; and

- (b) may give a notice requiring work regulated under the Acts mentioned in subsection (1) to be performed.

Division 2 Enforcement

115 Show cause notices

- (1) Before a local government gives a person an enforcement notice under section 116(1)(a)(ii) to (iv) 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.
- (2) The show cause notice must—
 - (a) outline the facts and circumstances forming the basis for the belief that an enforcement notice should be given to the person; and
 - (b) state that representations may be made about the show cause notice; and
 - (c) state how the representations may be made; and
 - (d) state where the representations may be made or sent; and
 - (e) state—
 - (i) a day and time for making the representations; or
 - (ii) a period within which the representations must be made.
- (3) The day or period stated in the notice must be, or must end, at least 20 business days after the notice is given.

116 Enforcement notices

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

Plumbing and Drainage Act 2002

- (a) plumbing or drainage or an on-site sewerage facility on the premises—
 - (i) is in a condition, or functions in a way, that constitutes a danger or health risk to occupiers of the premises or the public; or
 - (ii) is defective and should be altered, repaired or replaced; or
 - (iii) is not adequate to deal with the sewage generated on the premises or is in a condition that unreasonably interferes, or is likely to unreasonably interfere, with the use or enjoyment of any other premises; or
 - (iv) was installed without, or not in accordance with, the local government's approval; or
 - (b) the premises is not in a sewered area and the absence of an on-site sewerage facility on the premises constitutes a danger or health risk to occupiers of the premises or the public; or
 - (c) the owner has contravened, or is contravening, section 128K, 128L or 128M.²⁶
- (2) A local government may give written notice to a person who has performed plumbing or drainage work or on-site sewerage work requiring the person to do a stated thing if the local government reasonably believes the work does not comply with this Act.
- (3) Without limiting what may be required under subsection (1) or (2), a notice under subsection (1) or (2) may require the owner or person to do any of the following—
- (a) request a compliance assessment;
 - (b) do, or not do, a stated thing to ensure plumbing or drainage work or on-site sewerage work complies with this Act or a relevant compliance permit or certificate;

²⁶ Section 128K (Offence about discharging blackwater), 128L (Offence about discharging kitchen greywater from premises) or 128M (Offences about discharging greywater other than kitchen greywater from premises)

- (c) alter, repair, replace or remove plumbing or drainage work or on-site sewerage work.

117 Enforcement notices for backflow prevention devices

- (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.
- (2) The local government may give written notice to the owner or occupier of the premises to do any of the following—
 - (a) install a backflow prevention device;
 - (b) register a backflow prevention device that is required to be registered under the Standard Plumbing and Drainage Regulation;
 - (c) have a backflow prevention device inspected, tested and if necessary repaired or replaced by a licensee licenced to do the work.
- (3) Subsection (2) does not limit specific requirements of a notice given under the subsection.

118 Relationship with Integrated Planning Act 1997

- (1) An enforcement notice given under this Act is taken to be an enforcement notice given under the *Integrated Planning Act 1997*.²⁷
- (2) If the notice is given under section 116(1)(a)(i) or (b) or (c), the appeal must be started within 5 business days after the day the notice is given.
- (3) Subsection (2) applies despite the *Integrated Planning Act 1997*, section 4.2.13(2).²⁸

27 See the *Integrated Planning Act 1997*, section 4.3.15 (Offences relating to enforcement notices).

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

Part 6A General offences

Division 1 Offences about licences

119 Offences by persons not holding appropriate licence

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

Maximum penalty—165 penalty units.

120 Offence of directing or supervising unlicensed work

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

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

Maximum penalty—165 penalty units.

121 Exemptions for ss 119 and 120

- (1) A person does not commit an offence against section 119 or 120 if the work mentioned in the section is—
 - (a) only the excavation or back filling of trenches, or other work of an unskilled nature; or
 - (b) performed by a designated person, under the direct supervision of a licensed person for the work; or
 - (c) drainage work performed under the direct supervision of a person holding a drainers licence; or
 - (d) the installation of all or part of a greywater application area for a greywater use facility.

- (2) In this section—

designated person means a person who—

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

122 Contravening licence conditions

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

Maximum penalty—100 penalty units.

123 Limitations on provisional licence holders

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

Maximum penalty—100 penalty units.

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

Maximum penalty—100 penalty units.

124 Restriction on advertising for the carrying out of particular work

A person must not advertise that the person is available to carry out plumbing or drainage work, other than unregulated work, unless the person is the holder of a licence under this Act that entitles the person to carry out the work.

Maximum penalty—100 penalty units.

Division 2 Building and installation and related offences

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

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

- (a) a chief executive approval has been given for the plant; and
- (b) the building or installation complies with all conditions of the chief executive approval.²⁹

Maximum penalty—165 penalty units.

126 Restriction on building or installing greywater use facility

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

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

Maximum penalty—165 penalty units.

²⁹ For septic tanks, see also section 85D(2)(c) (Restrictions on giving compliance permit for particular on-site sewerage work).

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

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

Maximum penalty—100 penalty units.

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

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

Maximum penalty—100 penalty units.

128A Offence to pollute service provider's services

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

Maximum penalty—165 penalty units.

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

Maximum penalty—165 penalty units.

Division 3 Operating restrictions**128B Owner's obligation to ensure compliance with conditions of compliance certificate**

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

must ensure all conditions of the certificate are complied with.³⁰

Maximum penalty—165 penalty units.

128C Restriction on operating chemical, composting or incinerating toilet

A person must not operate a chemical, composting or incinerating toilet unless the operation complies with the EPA design rules.³¹

Maximum penalty—100 penalty units.

128D Restriction on operating particular on-site sewerage facilities

A person must not operate an on-site sewerage facility (other than a chemical, composting or incinerating toilet) in a way that does not comply with the Standard Plumbing and Drainage Regulation.³²

Maximum penalty—100 penalty units.

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

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

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

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

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

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

- (a) a compliance certificate has been given for the on-site sewerage work for the on-site sewerage facility of which the plant is a part;³³ and
- (b) the operation complies with all conditions of—
 - (i) the compliance certificate; and
 - (ii) if the on-site sewage treatment plant does not consist only of a chemical, composting or incinerating toilet—the chief executive approval for the plant.

Maximum penalty—100 penalty units.

128F Restrictions on operating greywater use facility

A person must not operate a greywater use facility unless—

- (a) a compliance certificate has been given for the regulated work for the facility;³⁴ and
- (b) the operation complies with all conditions of—
 - (i) the compliance certificate; and
 - (ii) the chief executive approval for the facility's greywater treatment plant; and
 - (iii) any plumbing code authorisation and certification for the facility's greywater diversion device.

Maximum penalty—100 penalty units.

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

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

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

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

Maximum penalty—165 penalty units.

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

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

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

Maximum penalty—40 penalty units.

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

Maximum penalty—100 penalty units.

Division 4 Prohibitions on removing or tampering with particular devices

128I Backflow prevention devices

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

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

Maximum penalty—165 penalty units.

128J Hot water control devices

- (1) A person must not do any of the following unless authorised under this or another Act—
- (a) remove a hot water control device installed on premises;
 - (b) do anything to a hot water control device installed on premises that renders it inoperable.

Maximum penalty—165 penalty units.

- (2) In this section—

hot water control device means—

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

Division 5 Discharge and disposal offences**128K Offence about discharging blackwater**

- (1) The owner of premises must ensure all blackwater from plumbing and drainage on the premises is discharged into—
- (a) if the premises is in a sewered area—the infrastructure of the sewerage service provider for area’s sewerage service; or
 - (b) if the premises is not in a sewered area—
 - (i) an on-site sewerage facility;³⁵ or
 - (ii) a dry-vault toilet; or

³⁵ See also section 125 (Restriction on building or installing particular on-site sewerage treatment plant).

- (iii) an environmentally relevant on-site sewerage facility.³⁶

Maximum penalty—500 penalty units.

- (2) In this section—

blackwater means—

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

128L Offence about discharging kitchen greywater from premises

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

- (a) if the premises is in a sewered area—the infrastructure of the sewerage service provider for area’s sewerage service; or
- (b) if the premises is not in a sewered area—
 - (i) an on-site sewerage facility;³⁷ or
 - (ii) an environmentally relevant on-site sewerage facility;³⁸ or
 - (iii) a greywater use facility that includes a greywater treatment plant.³⁹

Maximum penalty—500 penalty units.

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

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

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

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

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

- (1) This section applies to the owner of premises for the discharge of greywater, other than kitchen greywater, from plumbing and drainage on the premises.
- (2) If the premises is in a sewered area and the premises is not a single detached dwelling, the owner must ensure the greywater is—
 - (a) discharged into—
 - (i) the infrastructure of the sewerage service provider for the area’s sewerage service; or
 - (ii) a greywater use facility;⁴⁰ or
 - (b) carried by bucket to a garden or lawn on the premises.

Maximum penalty—500 penalty units.

- (3) If the premises is not in a sewered area and the premises is not a single detached dwelling, the owner must ensure the greywater is—
 - (a) discharged into—
 - (i) an on-site sewerage facility;⁴¹ or
 - (ii) an environmentally relevant on-site sewerage facility;⁴² or
 - (iii) a greywater use facility;⁴³ or
 - (b) carried by bucket to a garden or lawn on the premises.

Maximum penalty—500 penalty units.

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

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

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

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

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

Maximum penalty—100 penalty units.

- (5) To remove any doubt, it is declared that subsection (4) applies regardless of the way in which the greywater is discharged.
- (6) In this section—

single detached dwelling means a class 1a building under the Building Code of Australia.

128N Permissible and prohibited discharges

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

Maximum penalty—165 penalty units.

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

Maximum penalty—165 penalty units.

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

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

Maximum penalty—165 penalty units.

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

disconnecting the stormwater installation for the premises from the on-site sewerage facility.

Maximum penalty—165 penalty units.

128P Disposal of contents of on-site sewerage facility

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

Maximum penalty—100 penalty units.

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

Maximum penalty—100 penalty units.

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

Division 6 Other offences

128Q Misleading statement by builder, manufacturer or supplier

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

Maximum penalty—100 penalty units.

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

Maximum penalty—100 penalty units.

(3) In this section—

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

128R On-site sewerage facility no longer required

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

Maximum penalty—40 penalty units.

128S False or misleading documents

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

Maximum penalty—40 penalty units.

128T Obstruction of investigators or inspectors

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

Maximum penalty—40 penalty units.

(2) In this section—

obstruct includes hinder, resist and attempt to obstruct.

128U Impersonation of investigator or inspector

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

Maximum penalty—40 penalty units.

Part 7 **Reviews about plumbing and drainage licences**

129 **Applying for a review**

- (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—
 - (a) is dissatisfied with the decision; or
 - (b) was not given an information notice about the decision.
- (2) The applicant or licensee may apply for a review of the decision as if it were a reviewable decision under the *Commercial and Consumer Tribunal Act 2003*.
- (3) The application must be made within 28 days after—
 - (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
 - (b) if paragraph (a) does not apply—the day the applicant or licensee becomes aware of the original decision.

130 **Review of decision**

The decision may be reviewed as if it were a reviewable decision under the *Commercial and Consumer Tribunal Act 2003*.

131 **Powers of Commercial and Consumer Tribunal when reviewing**

- (1) The Commercial and Consumer Tribunal may, in reviewing the decision—
 - (a) confirm the original decision; or
 - (b) amend the original decision; or
 - (c) substitute another decision for the original decision; or

- (d) set aside the original decision and return the matter to the board with the directions the tribunal considers appropriate.
- (2) In substituting another decision for the original decision, the tribunal has the same powers as the board in making the original decision.

Example—

The tribunal may decide that an unsuccessful applicant for a licence be licensed either unconditionally or on particular conditions.

- (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.
- (4) If the tribunal decides to impose conditions on a licence, the tribunal must—
 - (a) state the reasons for the decision; and
 - (b) decide and state the review period applying to the conditions.

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.

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.

139 Statement of complainant's knowledge

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.

139A Allegations of false or misleading matters

- (1) This section applies to a proceeding for an offence against this Act described as involving a false or misleading document, information or statement.
- (2) It is enough for a complaint starting the proceeding to state the document, information or statement made was 'false or misleading' to the defendant's knowledge without specifying which.

140 Conduct of representatives

- (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.
- (2) It is enough to show—
 - (a) the conduct was engaged in by a representative of the person within the scope of the representative's actual or apparent authority; and

- (b) the representative had the state of mind.
- (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—
 - (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
 - (b) the person was not in a position to influence the representative in relation to the conduct.
- (4) In this section—
 - engaging* in conduct includes failing to engage in conduct.
 - representative* means—
 - (a) for a corporation—an agent, employee or executive officer of the corporation; or
 - (b) for an individual—an agent or employee of the individual.
 - state of mind* of a person includes the person's—
 - (a) belief, intention, knowledge, opinion or purpose; and
 - (b) reasons for the belief, intention, opinion or purpose.

Part 9 Miscellaneous provisions

141 Approval of forms

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

143 Local government's obligation to keep particular records

- (1) A local government must keep a copy of each of the following documents (each a *compliance document*) until the designated period for the document ends—

Plumbing and Drainage Act 2002

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

Maximum penalty—10 penalty units.

- (4) In this section—
- designated period***, for a compliance document, means—
- (a) if the document relates to a class 2 to 9 building under the Building Code of Australia, until the building is demolished or removed; or
 - (b) if the document relates to a class 1 or 10 building under the Building Code of Australia, the earlier of the following to happen—
 - (i) the building's demolition or removal;
 - (ii) if the document is, or relates to, a compliance permit—10 years from when the permit was given;
 - (iii) if the document is, or relates to, a compliance certificate—10 years from when the certificate was given.

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

A local government must keep a register of details of on site sewerage and greywater use facilities installed in its area for which it has given compliance certificates.⁴⁴

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

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

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

144 Chief executive may publish information

The chief executive may publish, in a way the chief executive considers appropriate, including, for example, by the Internet, information about—

- (a) plumbing and drainage and on-site sewerage work; or

Example for paragraph (a)—

a resolution mentioned in section 83 or 85B⁴⁵

- (b) licensed plumbers and drainers.

145 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation (the *Standard Plumbing and Drainage Regulation*) may be made about any of the following work or

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

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

inspecting the work—

- (a) plumbing and drainage work;
 - (b) on-site sewerage work.
- (3) A regulation under subsection (1) or (2) may—
- (a) state the practical experience and qualifications for persons to be the holders of licences; or
 - (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
 - (c) provide for a maximum penalty of not more than 20 penalty units for a contravention of a regulation.

146 References to repealed Act, by-laws and laws

- (1) This section applies to a reference in an Act or document, immediately before the commencement of this section, to—
- (a) the repealed Act; or
 - (b) the *Sewerage, Water Supply, and Gasfitting Act 1949*; or
 - (c) the *Standard Sewerage By-laws 1981*; or
 - (d) the Standard Sewerage By-laws (however described); or
 - (e) the Standard Sewerage Law; or
 - (f) the *Standard Water Supply By-laws 1949*; or
 - (g) Standard Water Supply By-laws (however described); or
 - (h) the Standard Water Supply Law.
- (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.

Part 10 Repeal and transitional provisions

Division 1 Repeal

147 Act repealed

The Sewerage and Water Supply Act 1949 is repealed.

Division 2 Transitional provisions for Act No. 77 of 2002

Subdivision 1 Transitional provisions about members, inspectors and licensing

148 Board members under the repealed Act continue in office

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—

- (a) 1 November 2003;
- (b) the members of a new board are appointed under this Act.

149 Inspectors under the repealed Act continue in office

A person who, immediately before the commencement of this section, was an inspector under the repealed Act is taken to be an inspector under this Act.

150 Licence applications continue under repealed Act

- (1) Subsection (2) applies if—
 - (a) an application was made under the repealed Act for a licence; and

- (b) the application had not been decided before the commencement of this section.
- (2) The application must be decided as if the repealed Act had not been repealed.
- (3) Section 151 applies to a licence issued because of a decision under subsection (2) as if the licence were a licence in force immediately before the commencement.

151 Licences issued under the repealed Act continue

- (1) Subsection (2) applies if a licence issued under the repealed Act is in force immediately before the commencement of this section.
- (2) The licence—
 - (a) if it was a plumber's licence—is taken to be a plumber's licence under this Act; or
 - (b) if it was a country plumber's licence—is taken to be a plumber's licence under this Act that is subject to the limitations stated in section 19(3) of the repealed Act; or
 - (c) if it was a water plumber's licence—is taken to be a plumber's licence under this Act that is subject to the limitations stated in section 19(4) of the repealed Act; or
 - (d) if it was a drainer's licence—is taken to be a drainer's licence under this Act; or
 - (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
 - (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.

Subdivision 2 Transitional provisions about plumbing and drainage work

152 Applications for approval to carry out plumbing or drainage work continue under repealed Act

- (1) Subsection (2) applies if—
 - (a) an application was made under the repealed Act for approval to carry out plumbing or drainage work; and
 - (b) the application had not been decided by the commencement of this section.
- (2) The application must be decided as if the repealed Act had not been repealed.
- (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.

153 Approvals for works issued under the repealed Act continue

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.

154 Plumbing or drainage work lawfully carried out under the repealed Act continues to be lawful

Plumbing or drainage work lawfully carried out under the repealed Act is taken to have been lawfully carried out under this Act.

155 Notices issued under the repealed Act continue under the repealed Act

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.

Subdivision 3 Transitional provisions about on-site sewerage facilities

156 Existing applications continue

- (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.
- (2) In this section—

application includes anything that is, or that has effect as, or is the equivalent of an application for—

 - (a) an approval for building, changing, dismantling, installing or taking away all or part of an on-site sewerage facility; or
 - (b) an approval for installing an on-site sewage treatment plant for an on-site sewerage facility; or
 - (c) a model approval; or
 - (d) a type specification approval; or
 - (e) an approval for the disposal of the contents of an on-site sewerage facility.

157 Existing approvals continue

- (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.
- (2) In this section—

approval includes anything that is, or that has effect as, or is the equivalent of—

 - (a) an approval for building, changing, dismantling, installing or taking away all or part of an on-site sewerage facility; or
 - (b) an approval for installing an on-site sewage treatment plant for an on-site sewerage facility; or

- (c) model approval; or
- (d) type specification approval; or
- (e) an approval for the disposal of the contents of an on-site sewerage facility.

158 Notices issued under the repealed Act continue under this Act

- (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.
- (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.

Subdivision 4 Miscellaneous transitional provisions

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

160 Definitions for div 3

In this division—

commencement means the day this section commences.

old part 5 means part 5⁴⁶ as in force immediately before the commencement.

old part 7, division 2 means part 7, division 2⁴⁷ as in force immediately before the commencement.

46 Old part 5 (On-site sewerage facilities)

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

old section 96 means section 96⁴⁸ as in force immediately before the commencement.

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

161 Existing applications for model or type specification approval

- (1) This section applies to an application under old part 5, division 3⁴⁹ for a model or type specification approval under that part that had not been decided immediately before the commencement.
- (2) The application must be decided as if old part 5 were still in force.
- (3) Old part 7, division 2, applies to the application as if that division were still in force.

162 Existing model or type specification approval

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

163 Existing on-site sewerage facility applications

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

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

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

164 Old section 96 approvals continue

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

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

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

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

- (1) Sections 82, 83 and 128B⁵⁰ apply to on-site sewerage work performed under an old section 96 approval granted under section 163 or continued under section 164.
- (2) For applying sections 82(2) and 128B, the references in the provisions to a compliance permit or a compliance certificate are taken to be references to the old section 96 approval.

167 On-site facility conditions

For applying section 128B, an on-site facility condition of an old section 96 approval is taken to be a condition imposed under section 86C.⁵¹

168 Existing notices under old part 5

- (1) This section applies if, immediately before the commencement—

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

51 Section 86C (Conditions of compliance certificate)

- (a) a notice had been given under division 4 of old part 5;⁵² and
 - (b) the notice had not been complied with.
- (2) The following provisions continue to apply for the notice and subject of the notice as if they had not been repealed—
- (a) the section under which the notice was given;
 - (b) old part 7, division 2.
- (3) To remove any doubt, it is declared that subsection (2) does not prevent the giving of an enforcement notice for the subject of the notice.

169 Appeal right for decisions under old part 5

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

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

Sections 128C, 128D and 128E⁵³ do not apply to an on-site sewerage facility built or installed before 30 April 1998 unless—

⁵² Old part 5, division 4 (Role of local governments)

⁵³ Sections 128C (Restriction on operating chemical, composting or incinerating toilet), 128D (Restriction on operating particular on-site sewerage facilities) and 128E (Restrictions on operating particular on-site sewerage treatment plant)

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

- (a) a local government approval is given for a change to the facility; or
- (b) a notice is given under section 116⁵⁴ for the facility.

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

Section 143A⁵⁵ only applies for an on-site sewerage or greywater use facility installed after the commencement.

Division 4 Transitional provisions for Building and Other Legislation Amendment Act 2006

172 Provisions for chemical, composting or incinerating toilets

- (1) An application made before the commencement of this section for a chief executive approval for a chemical, composting or incinerating toilet is, on the commencement, taken to have been withdrawn.
- (2) Section 125, as in force from 1 March 2006 to the commencement, is taken never to have applied to an on-site sewerage treatment plant that consists only of a chemical, composting, or incinerating toilet.

173 Provision about offences under s 128M

- (1) A proceeding can not be started for an offence under pre-amended section 128M if the circumstances giving rise to the commission of the offence would not, if the circumstances happened after the commencement of this section, give rise to the commission of an offence under post-amended section 128M.

54 Section 116 (Enforcement notices)

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

(2) In this section—

post-amended section 128M means section 128M as amended under the *Building and Other Legislation Amendment Act 2006*, section 99A.

pre-amended section 128M means section 128M as in force immediately before the *Building and Other Legislation Amendment Act 2006*, section 99A commences.

Schedule Dictionary

section 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.

approved form means a form approved by the chief executive under section 141.

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.

backflow prevention device means a device to prevent the reverse flow of water from a potentially polluted source into a potable water supply system.

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

building and development tribunal means a building and development tribunal established under the *Integrated Planning Act 1997*.

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

chairperson means the chairperson of the board appointed under section 11(1).

chief executive approval see section 91(1).

common effluent drainage means a sewerage system for carrying effluent from premises after treatment in an on-site sewerage facility for the premises.

compliance assessment means assessment under part 4.

compliance certificate see section 79.

compliance permit see section 78.

Schedule (continued)

compliance request see section 85(1).

deputy chairperson means the deputy chairperson of the board appointed under section 11(1).

deputy member means a deputy member appointed under section 10.

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

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

Example—

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

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

drainage work includes installing, changing, extending, disconnecting, taking away and maintaining drainage.

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

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

enforcement notice means a notice given under section 116 or 117.

environmentally relevant on-site sewerage facility—

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

Schedule (continued)

- 2 For paragraph 1, the facility is a facility installed on premises for treating, on the premises, sewage generated on the premises, and disposing of the resulting effluent—
- (a) on part of the premises (commonly called a ‘land application area’); or
 - (b) off the premises by common effluent drainage or by collection from a tank on the premises.

EPA design rules means the design rules under the *Environmental Protection (Waste Management) Regulation 2000*, section 67 and schedule 8.⁵⁶

foreign licensing authority means—

- (a) an interstate or the New Zealand licensing authority; or
- (b) an entity established under a law applying in a foreign country, other than New Zealand, having functions similar to the board’s functions.

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

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

greywater diversion device—

- 1 A ***greywater diversion device*** is a device that consists of—
- (a) a diversion device with the characteristics mentioned in paragraph 2; and
 - (b) a filtering system that uses a coarse filter to remove solids from greywater.
- 2 For paragraph 1, the characteristics are that the device—

⁵⁶ *Environmental Protection (Waste Management) Regulation 2000*, section 67 (Prohibition on use of non-complying waste equipment) and schedule 8 (Design rules), part 2 (Chemical, composting and incinerating toilets)

Schedule (continued)

- (a) directs and diverts greywater to sanitary drainage or a greywater application area; and
- (b) automatically diverts greywater from the facility to sanitary drainage if the facility does not work properly or at all; and
- (c) allows the manual diversion of greywater from the facility to sanitary drainage.

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

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

information notice means—

- (a) for a decision of the board under part 3, a notice stating the following—
 - (i) the decision;
 - (ii) the reasons for the decision;
 - (iii) that the person to whom the notice is given may apply for a review of the decision within 28 days;
 - (iv) how the person may apply for the review;
 - (v) if the decision is that a person be licensed on conditions—the review period applying to the conditions;
 - (vi) if the decision is that a licence be renewed or restored—the review period applying to the conditions;
 - (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;
 - (viii) if the decision is that the conditions imposed on a licence be confirmed—the review period applying to the confirmed conditions;

Schedule (continued)

- (ix) if the decision is that the conditions imposed on a licence be changed—
 - (A) the review period applying to the changed conditions; and
 - (B) a direction to the licensee to return the licence to the board within 10 business days after receiving the notice; or
- (b) for a decision of the chief executive or a local government, under part 4 or 5, a notice stating the following—
 - (i) the decision;
 - (ii) the reasons for the decision;
 - (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;
 - (iv) how the person may appeal against the decision.

inspector means a person appointed under section 107 as an inspector for this Act.

interstate or New Zealand licence means a licence that is granted by an interstate or the New Zealand licensing authority.

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.

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

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

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

licence means a licence in force under part 3.

Schedule (continued)

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

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

member means a member of the board.

minor work means plumbing or drainage work prescribed under the Standard Plumbing and Drainage Regulation as minor work.

occupier, of premises, includes a person who reasonably appears to be the occupier of, or in charge of, the premises.

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.

on-site sewerage facility—

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

Schedule (continued)

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

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

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

original decision see section 129(1).

owner means—

- (a) for premises comprising a building or structure—the owner of the building or structure within the meaning of the *Building Act 1975*; or
- (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.

plan includes any supporting documentation for the plan.

plumbing means—

- (a) for water—an apparatus, fitting or pipe for supplying water to premises from a service provider's infrastructure or a water storage tank and for carrying water within premises; or
- (b) for sewage—an apparatus, fitting, fixture or pipe, above ground level, that carries sewage on premises to drainage; or
- (c) a greywater treatment plant or greywater diversion device.

plumbing code authorisation and certification means product authorisation and certification under the document in force from time to time called 'Plumbing Code of Australia',

Schedule (continued)

produced for all State governments by the National Plumbing Regulators Forum.⁵⁷

plumbing work includes installing, changing, extending, disconnecting, taking away and maintaining plumbing.

premises means—

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

prohibited substance means—

- (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

Examples for paragraph (a)—

- ash, cinders, sand, mud, straw and shavings
 - metal, glass and plastics
 - paper and plastic dishes, cups and milk containers
 - rags, feathers, tar and wood
 - whole blood, paunch manure, hair and entrails
 - oil and grease
 - cement laden waste water, including, wash down from exposed aggregate concrete surfaces.
- (b) a flammable or explosive solid, liquid or gaseous substance; or
 - (c) floodwater, rainwater and stormwater, and roof water, seepage water, subsoil water and surface water; or
 - (d) a substance that, given its quantity, is capable alone, or by interaction with another substance discharged into an on-site sewerage facility, of—

⁵⁷ A copy of the most recent version of the code at any time may be inspected free of charge during office hours on business days at the department's office at 41 George Street, Brisbane.

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

Schedule (continued)

- (i) inhibiting or interfering with a sewage treatment process; or
- (ii) causing damage or a hazard to an on-site sewerage facility; or
- (iii) causing a hazard for humans or animals; or
- (iv) creating a public nuisance; or
- (v) creating a hazard in waters into which it is discharged; or
- (vi) contaminating the environment in places where effluent or sludge from a sewage treatment plant is discharged or reused; or

Example paragraph (d)—

a substance with a pH lower than 6.0 or greater than 10.0, or having another corrosive property

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

public sector entity—

- 1 *Public sector entity* means—
 - (a) a department or part of a department; or
 - (b) an agency, authority, commission, corporation, instrumentality, office, or other entity, established under an Act for a public or State purpose.
- 2 The term includes a government owned corporation.

register means the register kept under section 77.

regulated work means plumbing or drainage work that is not minor work or unregulated work.

repealed Act means the *Sewerage and Water Supply Act 1949*.

review period, applying to conditions imposed by the board or the Commercial and Consumer Tribunal on a licence, means

Schedule (continued)

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.

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.

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

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

secretary means the person holding office under an appointment made under section 29.

septic tank means a tank in which solid organic matter in sewage is decomposed by anaerobic bacteria.

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

sewage treatment plant means equipment for the biological, physical or chemical treatment of sewage.

sewer means a pipe, other than for drainage, for carrying sewage from premises.

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

Schedule (continued)

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.

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

show cause notice for—

- (a) part 3, division 7—see section 66(1); or
- (b) part 6, division 2—see section 115(1).

Standard Plumbing and Drainage Regulation see section 145(2).

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.

testing approval means a chief executive approval under section 91(1)(e).

trade means the trade of plumbing and draining.

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

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 9 November 2007. Future amendments of the Plumbing and Drainage Act 2002 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

5 Tables in earlier reprints

Name of table	Reprint No.
Corrected minor errors	1

6 List of legislation

Plumbing and Drainage Act 2002 No. 77

date of assent 13 December 2002

ss 1–2, pt 15 amdts of the Water Act 2000 commenced on date of assent

pt 11 hdg, ss 160, 166 amdts of the Building Act 1975 commenced 7 February 2003 (2003 SL No. 14)

ss 161–165, 167–172, 173 (to the extent it ins ss 30, 30B, 30C), 174–191 amdts of the Building Act 1975, ss 201–213, 217 amdts of the Integrated Planning Act 1997, ss 230–240 amdts of the Local Government Act 1993 commenced 14 November 2003 (2003 SL No. 272)

s 173 (to the extent it ins new s 30A) of the Building Act 1975 commenced 14 December 2004 (automatic commencement under AIA s 15DA(2) (2003 SL No. 273 s 2))

ss 192, 214–216, 218 amdts of the Integrated Planning Act 1997 commenced 21 February 2003 (2003 SL No. 19)

ss 193–200 amdts of the Integrated Planning Act 1997, ss 225–229 amdts of the Local Government Act 1993 commenced 1 November 2003 (2003 SL No. 264) remaining provisions commenced 1 November 2003 (2003 SL No. 264)

amending legislation—

Commercial and Consumer Tribunal Act 2003 No. 30 ss 1–2, 169 sch 1

date of assent 23 May 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2003 (see s 2)

Integrated Planning and Other Legislation Amendment Act 2003 No. 64 ss 1, 2(3)(e), pt 8

date of assent 16 October 2003

ss 1–2 commenced on date of assent

remaining provisions commenced on date of assent (see s 2(3)(e))

Statute Law (Miscellaneous Provisions) Act 2004 No. 53

date of assent 29 November 2004

commenced on date of assent

Plumbing and Drainage and Other Legislation Amendment Act 2005 No. 39 pts 1, 4

date of assent 1 September 2005

ss 1–2, 11, 22 (to the extent it ins s 85A), 46(2) (to the extent it ins sch defs “greywater”, “greywater diversion device”, “greywater treatment plant”, “greywater use facility”, “investigator” and “sewered area”) commenced on date of assent (see s 2)

remaining provisions commenced 1 March 2006 (see s 2)

Public Health Act 2005 No. 48 ss 1–2, 492 sch 1

date of assent 2 November 2005

ss 1–2 commenced on date of assent

remaining provisions commenced on 1 December 2005 (2005 SL No. 280)

Integrated Planning and Other Legislation Amendment Act 2006 No. 11 s 1, pt 10

date of assent 30 March 2006

commenced on date of assent

Building and Other Legislation Amendment Act 2006 No. 36 pts 1, 4, s 101 sch

date of assent 10 August 2006

commenced on date of assent

Vocational Education, Training and Employment and Other Legislation Amendment Act 2007 No. 53 ss 1, 30 sch

date of assent 9 November 2007

commenced on date of assent

7 List of annotations

Membership of board

s 9 amd 2005 No. 48 s 492 sch 1

Officers, employees and agents

prov hdg sub 2005 No. 39 s 9(1)

s 29 amd 2005 No. 39 s 9(2)

Delegation by secretary

s 29A ins 2005 No. 39 s 10

PART 2—PLUMBERS AND DRAINERS BOARD

Division 8—Board investigators and their powers

div 8 (ss 33A–33V) ins 2005 No. 39 s 11

Decision on application for licence

s 40 amd 2005 No. 39 s 12

How licensee may start review

s 55 amd 2003 No. 30 s 169 sch 1

Failure by board to make decision on review agreed to under s 56

s 62 amd 2006 No. 36 s 101 sch

Grounds for discipline

s 64 amd 2005 No. 39 s 13

Compliance permit

s 78 amd 2005 No. 39 s 14

Compliance certificate

s 79 amd 2005 No. 39 s 15

Purpose of compliance assessment

s 80 amd 2005 No. 39 s 16

Regulated work and on-site sewerage work must be assessed for compliance

prov hdg amd 2005 No. 39 s 17

s 81 amd 2005 No. 39 s 17

Plans and all plumbing and drainage work or on-site sewerage work must comply

prov hdg amd 2005 No. 39 s 18(1)

s 82 amd 2005 No. 39 s 18(2)

Compliance permit required for certain regulated work or any on-site sewerage work

prov hdg amd 2005 No. 39 s 19(1)

s 83 amd 2005 No. 39 s 19(2)–(3)

Regulated work by a public sector entity

prov hdg amd 2005 No. 39 s 20(1)

s 84 amd 2005 No. 39 s 20(2)

Process for assessing plans

s 85 amd 2005 No. 39 s 21; 2006 No. 36 s 96A

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

s 85A ins 2005 No. 39 s 22
om 2006 No. 36 s 96B

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

s 85B ins 2005 No. 39 s 22
amd 2006 No. 36 s 96C

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

s 85C ins 2005 No. 39 s 22

Restrictions on giving compliance permit for particular on-site sewerage work

s 85D ins 2005 No. 39 s 22

Special provisions for assessing plan for work for testing purposes

s 85E ins 2005 No. 39 s 22

Division 4—Assessing plumbing and drainage work and on-site sewerage work

div hdg amd 2005 No. 39 s 23

General process for assessing regulated work and on-site sewerage work

prov hdg sub 2005 No. 39 s 24(1)
s 86 amd 2005 No. 39 s 24(2)–(10)

Process for assessing certain regulated work or on-site sewerage work in remote areas

prov hdg ins 2003 No. 64 s 133
amd 2005 No. 39 s 25
s 86A ins 2003 No. 64 s 133
amd 2005 No. 39 s 25

Special provisions for assessing on-site sewerage work for testing purposes

s 86B ins 2005 No. 39 s 26

Conditions of compliance certificate

s 86C ins 2005 No. 39 s 26

Division 4A—Compliance certificates

div 4A (ss 86D–86G) ins 2005 No. 39 s 26

Division 4B—Minor and unregulated work

div hdg ins 2005 No. 39 s 27

Minor work

s 87 amd 2003 No. 64 s 134
sub 2005 No. 39 s 27

Standard Plumbing and Drainage Regulation may prescribe additional requirements and actions

s 90 amd 2003 No. 64 s 135

PART 5—CHIEF EXECUTIVE APPROVALS

pt hdg sub 2005 No. 39 s 28

Division 1—Applying for and obtaining approval**div hdg** sub 2005 No. 39 s 28**Applying for chief executive approval****s 91** sub 2005 No. 39 s 28
amd 2006 No. 36 s 97**Information request****s 92** sub 2005 No. 39 s 28**Deciding application****s 93** sub 2005 No. 39 s 28**Conditions of approval****s 94** sub 2005 No. 39 s 28**Information notice****s 95** sub 2005 No. 39 s 28**Division 2—Miscellaneous provisions****div hdg** sub 2005 No. 39 s 28**Term of chief executive approval****s 96** sub 2005 No. 39 s 28**Renewals****s 97** sub 2005 No. 39 s 28**Publication of chief executive approvals****s 98** sub 2005 No. 39 s 28
amd 2006 No. 36 s 98**Division 3—Model and type specification approvals****div hdg** om 2005 No. 39 s 28**Division 4—Role of local governments****div hdg** om 2005 No. 39 s 28**Notice to remove on-site sewerage facility****s 99** om 2005 No. 39 s 28
amd 2006 No. 36 s 99**Approval to build or install on-site sewerage facility for testing purposes****s 100** om 2005 No. 39 s 28**Division 5—Responsibilities of owners and others relating to on-site sewerage facilities****div hdg (ss 101–106)** om 2005 No. 39 s 28**PART 6—INVESTIGATION AND ENFORCEMENT BY LOCAL GOVERNMENTS****pt hdg** sub 2005 No. 39 s 29**Functions and powers of inspectors and relationship to the Local Government Act 1993****s 114** amd 2005 No. 39 s 30

Show cause notices

s 115 amd 2005 No. 39 s 31

Division 3—Offences about licences

div hdg om 2005 No. 39 s 34

Division 4—Offences about plumbing and drainage

div hdg om 2005 No. 39 s 34

Division 5—Other offences

div hdg om 2005 No. 39 s 34

Enforcement notices

s 116 sub 2005 No. 39 s 32

Relationship with Integrated Planning Act 1997

s 118 amd 2005 No. 39 s 33

PART 6A—GENERAL OFFENCES

pt hdg ins 2005 No. 39 s 34

Division 1—Offences about licences

div hdg ins 2005 No. 39 s 34

Offences by persons not holding appropriate licence

s 119 sub 2005 No. 39 s 34

Offence of directing or supervising unlicensed work

s 120 sub 2005 No. 39 s 34

Exemptions for ss 119 and 120s 121 sub 2005 No. 39 s 34
 and 2007 No. 53 s 30 sch**Contravening licence conditions**

s 122 sub 2005 No. 39 s 34

Limitations on provisional licence holders

s 123 sub 2005 No. 39 s 34

Restriction on advertising for the carrying out of particular work

s 124 sub 2005 No. 39 s 34

Division 2—Building and installation and related offences

div hdg ins 2005 No. 39 s 34

Restriction on building or installing particular on-site sewerage treatment plants 125 sub 2005 No. 39 s 34
 amd 2006 No. 36 s 98**Restriction on building or installing greywater use facility**

s 126 sub 2005 No. 39 s 34

Restriction on building or installing chemical, composting or incinerating toilet

s 127 sub 2005 No. 39 s 34

Restriction on dismantling or taking away on-site sewerage facility

s 128 sub 2005 No. 39 s 34

Offence to pollute service provider's services

s 128A ins 2005 No. 39 s 34

Division 3—Operating restrictions

div hdg ins 2005 No. 39 s 34

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

s 128B ins 2005 No. 39 s 34

Restriction on operating chemical, composting or incinerating toilet

s 128C ins 2005 No. 39 s 34

Restriction on operating particular on-site sewerage facilities

s 128D ins 2005 No. 39 s 34

Restrictions on operating particular on-site sewerage treatment plants 128E ins 2005 No. 39 s 34
amd 2006 No. 36 s 99**Restrictions on operating greywater use facility**

s 128F ins 2005 No. 39 s 34

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

s 128G ins 2005 No. 39 s 34

Obligations of person who services on-site sewerage facility

s 128H ins 2005 No. 39 s 34

Division 4—Prohibitions on removing or tampering with particular devices

div 4 (ss 128I–128J) ins 2005 No. 39 s 34

Division 5—Discharge and disposal offences

div hdg ins 2005 No. 39 s 34

Offence about discharging blackwater

s 128K ins 2005 No. 39 s 34

Offence about discharging kitchen greywater from premises

s 128L ins 2005 No. 39 s 34

Offences about discharging greywater other than kitchen greywater from premisess 128M ins 2005 No. 39 s 34
amd 2006 No. 36 s 99A**Permissible and prohibited discharges**

s 128N ins 2005 No. 39 s 34

Stormwater drainage must be separate from on-site sewerage facility

s 128O ins 2005 No. 39 s 34

Disposal of contents of on-site sewerage facility

s 128P ins 2005 No. 39 s 34

Division 6—Other offences

div 6 (ss 128Q–128U) ins 2005 No. 39 s 34

PART 7—REVIEWS ABOUT PLUMBING AND DRAINAGE LICENCES

pt hdg sub 2005 No. 39 s 35

Division 1—Reviews about plumbing and drainage licences**div hdg** om 2005 No. 39 s 36**Applying for a review****s 129** amd 2003 No. 30 s 169 sch 1**Review of decision****s 130** amd 2003 No. 30 s 169 sch 1**Powers of Commercial and Consumer Tribunal when reviewing****prov hdg** amd 2003 No. 30 s 169 sch 1**s 131** amd 2003 No. 30 s 169 sch 1**Division 2—Reviews about on-site sewerage facilities****div 2 (ss 132–133)** om 2005 No. 39 s 37**Allegations of false or misleading matters****s 139A** ins 2005 No. 39 s 38**Maintenance of existing combined sanitary drains****s 142** om 2005 No. 39 s 39**Local government's obligation to keep particular records****s 143** sub 2005 No. 39 s 40**Local government register of installed on-site sewerage and greywater use facilities****s 143A** ins 2005 No. 39 s 40**Local government's monitoring obligations for greywater use facilities in sewerred areas****s 143B** ins 2005 No. 39 s 40**Chief executive may publish information****s 144** amd 2005 No. 39 s 41**Regulation-making power****s 145** amd 2004 No. 53 s 2 sch; 2005 No. 39 s 42**PART 10—REPEAL AND TRANSITIONAL PROVISIONS****Division 2—Transitional provisions for Act No. 77 of 2002****div hdg** ins 2005 No. 39 s 44**Subdivision 1—Transitional provisions about members, inspectors and licensing****sddiv hdg** (prev div 2 hdg) renum 2005 No. 39 s 43**Subdivision 3—Transitional provisions about plumbing and drainage work****sddiv hdg** (prev div 3 hdg) renum 2005 No. 39 s 43**Subdivision 4—Transitional provisions about on-site sewerage facilities****sddiv hdg** (prev div 4 hdg) renum 2005 No. 39 s 43**Subdivision 5—Miscellaneous transitional provisions****sddiv hdg** (prev div 5 hdg) renum 2005 No. 39 s 43**Transitional regulation-making power****s 159** exp 1 November 2004 (see s 159(4))

**Division 3—Transitional provisions for Plumbing and Drainage and Other
Legislation Amendment Act 2005****div hdg** ins 2005 No. 39 s 45**PART 11—AMENDMENT OF BUILDING ACT 1975****pt hdg** om R1 (see RA s 40)**Definitions for div 3****s 160** prev s 160 om R1 (see RA s 40)
pres s 160 ins 2005 No. 39 s 45**Existing applications for model or type specification approval****s 161** prev s 161 om R1 (see RA s 40)
pres s 161 ins 2005 No. 39 s 45**Existing model or type specification approval****s 162** prev s 162 om R1 (see RA s 40)
pres s 162 ins 2005 No. 39 s 45**Existing on-site sewerage facility applications****s 163** prev s 163 om R1 (see RA s 40)
pres s 163 ins 2005 No. 39 s 45**Old section 96 approvals continue****s 164** prev s 164 om R1 (see RA s 40)
pres s 164 ins 2005 No. 39 s 45**Exclusion of s 81 for work performed under old section 96 approval****s 165** prev s 165 om R1 (see RA s 40)
pres s 165 ins 2005 No. 39 s 45**Application of ss 82, 83 and 128B for old section 96 approvals****s 166** prev s 166 om R1 (see RA s 40)
pres s 166 ins 2005 No. 39 s 45**On-site facility conditions****s 167** prev s 167 om R1 (see RA s 40)
pres s 167 ins 2005 No. 39 s 45**Existing notices under old part 5****s 168** prev s 168 om R1 (see RA s 40)
pres s 168 ins 2005 No. 39 s 45**Appeal right for decisions under old part 5****s 169** prev s 169 om R1 (see RA s 40)
pres s 169 ins 2005 No. 39 s 45**Exemption from particular offences for particular on-site sewerage facilities built or
installed before 30 April 1998****s 170** prev s 170 om R1 (see RA s 40)
pres s 170 ins 2005 No. 39 s 45**On-site sewerage and greywater use facilities to which s 143A applies****s 171** prev s 171 om R1 (see RA s 40)
pres s 171 ins 2005 No. 39 s 45

Division 4—Transitional provisions for Building and Other Legislation Amendment Act 2006

div hdg prev div 4 hdg om R1 (see RA s 40)
pres div 4 hdg ins 2006 No. 36 s 100

Provisions for chemical, composting or incinerating toilets

s 172 prev s 172 om R1 (see RA s 40)
pres s 172 ins 2006 No. 36 s 100

Provision about offences under s 128M

s 173 prev s 173 om R1 (see RA s 40)
pres s 172 ins 2006 No. 36 s 100

Amendment of s 31 (Jurisdiction of building certifiers)

s 174 om R1 (see RA s 40)

Replacement of pt 5, div 3

s 175 om R1 (see RA s 40)

Replacement of pt 5, div 4 hdg

s 176 om R1 (see RA s 40)

Amendment of s 33 (Making a complaint against a building certifier)

s 177 om R1 (see RA s 40)

Amendment of s 34 (Building certifier must be advised of complaint)

s 178 om R1 (see RA s 40)

Insertion of new ss 34A and 34B

s 179 om R1 (see RA s 40)

Replacement of s 35 (Accrediting body must investigate complaint)

s 180 om R1 (see RA s 40)

Replacement of pt 5, div 5 hdg

s 181 om R1 (see RA s 40)

Amendment of s 36 (Accrediting body may require documents to be produced)

s 182 om R1 (see RA s 40)

Replacement of s 37 (Inspection of documents)

s 183 om R1 (see RA s 40)

Amendment of s 38 (Power to enter and inspect building)

s 184 om R1 (see RA s 40)

Amendment of s 39 (Cooperating with investigation or audit)

s 185 om R1 (see RA s 40)

Insertion of new ss 39A and 39B

s 186 om R1 (see RA s 40)

Replacement of ss 40 and 41

s 187 om R1 (see RA s 40)

Replacement of pt 5, div 6

s 188 om R1 (see RA s 40)

Amendment of s 46A (Fees for statutory functions)

s 189 om R1 (see RA s 40)

Amendment of s 50 (Prosecution of offences)

s 190 om R1 (see RA s 40)

Insertion of new pt 8

s 191 om R1 (see RA s 40)

PART 12—AMENDMENT OF INTEGRATED PLANNING ACT 1997

pt 12 (ss 192–218) om R1 (see RA s 40)

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

pt 13 (ss 219–224) om 2003 No. 64 s 143

PART 14—AMENDMENT OF LOCAL GOVERNMENT ACT 1993

pt 14 (ss 225–240) om R1 (see RA s 40)

PART 15—AMENDMENT OF WATER ACT 2000

pt 15 (ss 241–250) om R1 (see RA s 40)

SCHEDULE—DICTIONARYdef “**board**” sub 2005 No. 39 s 46(1)–(2)def “**Building Code of Australia**” ins 2005 No. 39 s 46(2)def “**built item**” om 2005 No. 39 s 46(1)def “**chief executive approval**” ins 2005 No. 39 s 46(2)

amd 2006 No. 36 s 101 sch

def “**compliance request**” ins 2005 No. 39 s 46(2)def “**drainage**” sub 2005 No. 39 s 46(1)–(2)def “**dry-vault toilet**” ins 2005 No. 39 s 46(2)def “**environmentally relevant on-site sewerage facility**” ins 2005 No. 39 s 46(2)def “**EPA design rules**” ins 2005 No. 39 s 46(2)def “**greywater**” ins 2005 No. 39 s 46(2)def “**greywater application area**” ins 2005 No. 39 s 46(2)

amd 2006 No. 11 s 101

def “**greywater diversion device**” ins 2005 No. 39 s 46(2)def “**greywater treatment plant**” ins 2005 No. 39 s 46(2)def “**greywater use facility**” ins 2005 No. 39 s 46(2)def “**information notice**” amd 2005 No. 39 s 46(3)–(4)def “**investigator**” ins 2005 No. 39 s 46(2)def “**kitchen greywater**” ins 2005 No. 39 s 46(2)def “**licensed person**” ins 2005 No. 39 s 46(2)def “**local government**” ins 2005 No. 39 s 46(2)def “**model approval**” om 2005 No. 39 s 46(1)def “**on-site facility conditions**” om 2005 No. 39 s 46(1)def “**on-site sewerage code**” om 2005 No. 39 s 46(1)def “**on-site sewerage facility**” sub 2005 No. 39 s 46(1)–(2)def “**on-site sewerage work**” ins 2005 No. 39 s 46(2)def “**operate**” ins 2005 No. 39 s 46(2)def “**original decision**” sub 2005 No. 39 s 46(1)–(2)def “**owner**” amd 2005 No. 39 s 46(5)

- def “**plumbing**” amd 2005 No. 39 s 46(6)–(7)
 def “**plumbing code authorisation and certification**” ins 2005 No. 39 s 46(2)
 def “**prefabricated item**” om 2005 No. 39 s 46(1)
 def “**premises**” ins 2005 No. 39 s 46(2)
 def “**review decision**” om 2005 No. 39 s 46(1)
 def “**review notice**” om 2005 No. 39 s 46(1)
 def “**review period**” amd 2003 No. 30 s 169 sch 1
 def “**sanitary drainage**” ins 2005 No. 39 s 46(2)
 def “**sewage**” ins 2005 No. 39 s 46(2)
 def “**sewerage service provider**” ins 2005 No. 39 s 46(2)
 def “**sewered area**” ins 2005 No. 39 s 46(2)
 def “**testing approval**” ins 2005 No. 39 s 46(2)
 amd 2006 No. 36 s 101 sch
 def “**type specification approval**” om 2005 No. 39 s 46(1)

8 List of forms notified or published in the gazette

(The following information about forms is taken from the gazette and is included for information purposes only. Because failure by a department to notify or publish a form in the gazette does not invalidate the form, you should check with the relevant government department for the latest information about forms (see Statutory Instruments Act, section 58(8)).)

Form 1 Version 2—Application for Compliance Assessment

pubd gaz 24 February 2006 p 796

Form 2 Version 2—Proposed Plumbing & Drainage & On-site Sewerage Work

pubd gaz 24 February 2006 p 796

Form 3 Version 2—Verification of Covered Work

pubd gaz 24 February 2006 p 796

Form 4 Version 1—Notifiable Minor Work

pubd gaz 31 October 2003 p 689

Form 5 Version 2—Application for Compliance Assessment—Remote Area

pubd gaz 24 February 2006 p 796

Form 6 Version 2—Notice of Compliance—Remote Area

pubd gaz 24 February 2006 p 796

Form 7 Version 2—Notification of Responsible Person

pubd gaz 24 February 2006 p 796

Form 8 Version 1—Notice of Compliance—On-site Sewerage Work

pubd gaz 24 February 2006 p 796

Form 9 Version 1—Report on Inspection and Testing of Backflow Prevention Devices, Registered Air Gaps and Registered Break Tanks

pubd gaz 24 February 2006 p 796

Form 10 Version 1—Application for Chief Executive Approval

pubd gaz 24 February 2006 p 796

Form 21 Version 2—Application for a Licence

pubd gaz 8 October 2004 p 473

Form 22 Version 2—Application for Renewal or Restoration of a Licence

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Form 23 Version 1—Application for a Review of Licence Conditions

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Form 24 Version 1—Application for Replacement of a Licence

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