

THIS PUBLIC BILL has this day been read a Third time and passed

*The Clerk of the Parliament.*

*Legislative Assembly Chamber,  
Brisbane, September 2018*



Queensland

**No.  
A BILL for**

**An Act about plumbing and drainage, and the licensing of plumbers and drainers, and to amend this Act, the Building Industry Fairness (Security of Payment) Act 2017, the Planning Act 2016, the Queensland Building and Construction Commission Act 1991 and the Acts mentioned in schedule 2 for particular purposes**





## Queensland

# Plumbing and Drainage Bill 2018

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# 2018

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## A Bill

for

**An Act about plumbing and drainage, and the licensing of plumbers and drainers, and to amend this Act, the *Building Industry Fairness (Security of Payment) Act 2017*, the *Planning Act 2016*, the *Queensland Building and Construction Commission Act 1991* and the Acts mentioned in schedule 2 for particular purposes**

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## The Parliament of Queensland enacts—

# Part 1 Preliminary

## Division 1 Introduction

### 1 Short title

This Act may be cited as the *Plumbing and Drainage Act 2018*.

### 2 Commencement

- (1) This Act, other than the following provisions, commences on a day to be fixed by proclamation—
  - part 9, division 1A, other than section 176F(2)
  - sections 192A to 192K, 193A to 193G and 196(3) to (6)
  - schedule 2, amendments of the *Building Industry Fairness (Security of Payment) Act 2017*.
- (2) The *Acts Interpretation Act 1954*, section 15DA does not apply to part 9, division 3.

### 3 Main purpose of Act

- (1) The main purpose of this Act is to regulate the carrying out of plumbing or drainage work in a way that reduces risks to—
  - (a) public health and safety; and
  - (b) the environment.
- (2) The main purpose of this Act is to be achieved primarily by—
  - (a) establishing a licensing scheme to ensure all plumbing or drainage work, other than unregulated work, is



carried out by persons who are qualified to carry out the work; and

- (b) requiring plumbing or drainage work to be carried out in compliance with the code requirements for the work; and
- (c) establishing a framework for approving particular plumbing or drainage work and particular treatment plants.

#### **4 Act binds all persons**

This Act binds all persons, including the State and, as far as the legislative power of the Parliament permits, the Commonwealth and the other States.

## **Division 2 Interpretation**

#### **5 Definitions**

The dictionary in schedule 1 defines particular words used in this Act.

#### **6 Categories of plumbing or drainage work**

- (1) Plumbing or drainage work consists of the following categories of work—
  - (a) permit work;
  - (b) notifiable work;
  - (c) minor work;
  - (d) unregulated work.
- (2) **Permit work** is plumbing or drainage work prescribed by regulation as permit work.
- (3) **Notifiable work** is plumbing or drainage work prescribed by regulation as notifiable work.

[s 7]

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- (4) **Minor work** is plumbing or drainage work prescribed by regulation as minor work.
- (5) **Unregulated work** is plumbing or drainage work prescribed by regulation as unregulated work.

## 7 The Queensland Plumbing and Wastewater Code

- (1) The *Queensland Plumbing and Wastewater Code* is the document called ‘Queensland Plumbing and Wastewater Code’ made by the chief executive and published on the department’s website, as amended from time to time.
- (2) The Queensland Plumbing and Wastewater Code does not take effect under this Act until it is approved by regulation.

## 8 The Plumbing Code of Australia

The *Plumbing Code of Australia* is the document in force from time to time called ‘National Construction Code, volume 3—Plumbing Code of Australia’ published by the Australian Building Codes Board.

## 9 Code requirements

- (1) The **code requirements**, for plumbing or drainage work, are the requirements about the plumbing or drainage work under—
  - (a) the Queensland Plumbing and Wastewater Code; and
  - (b) a provision of the Plumbing Code of Australia prescribed by regulation; and
  - (c) a part of the Queensland Development Code prescribed by regulation; and
  - (d) the local laws of a local government relating to plumbing or drainage that are not inconsistent with this Act.
- (2) If the Queensland Plumbing and Wastewater Code is inconsistent with a provision of the Plumbing Code of

Australia or a part of the Queensland Development Code prescribed under subsection (1), the Queensland Plumbing and Wastewater Code prevails to the extent of the inconsistency.

- (3) If a provision of the Plumbing Code of Australia is inconsistent with a part of the Queensland Development Code prescribed under subsection (1), the part prevails to the extent of the inconsistency.
- (4) A regulation may prescribe how plumbing or drainage work, or a plan for plumbing or drainage work, can comply with the code requirements for the work.

## **10 References to plumbing or drainage work**

In this Act, a reference to plumbing or drainage work is taken to include plumbing or drainage that results from, or is affected by, the plumbing or drainage work, to the extent the context permits.

## **11 References to local governments**

For administering this Act within an area, a reference in this Act to a local government is taken to be a reference to the entity administering this Act within the area under section 135.

# **Part 2 Licensing**

## **Division 1 Classes of licences**

### **12 Classes of licences**

- (1) The commissioner may grant—
  - (a) a plumbers licence; or
  - (b) a drainers licence; or

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- (c) a restricted licence.
- (2) The commissioner may grant a provisional licence for each class of licence mentioned in subsection (1).

*Note—*

The commissioner may make an endorsement on a licence under section 25.

### **13 Work that may be carried out under licences**

- (1) The holder of a plumbers licence may carry out only the plumbing work for which the licence is granted.
- (2) The holder of a drainers licence may carry out only the drainage work for which the licence is granted.
- (3) The holder of a restricted licence may carry out only the plumbing or drainage work for which the licence is granted.
- (4) The holder of a provisional licence may carry out only the plumbing or drainage work for which the licence is granted.
- (5) The scope of work for a particular class of licence is the scope of work prescribed by regulation for the licence.
- (6) This section is subject to section 25.

## **Division 2 Granting licences**

### **14 Qualifications and practical experience required for licence**

The commissioner must—

- (a) decide the qualifications and practical experience that an individual must have to be granted a licence; and
- (b) publish on QBCC's website the required qualifications and practical experience for the licence.

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## 15 Entitlement to licence

- (1) An individual is entitled to a licence if, on application by the individual, the commissioner is satisfied the individual has the qualifications and practical experience for the licence.
- (2) However, the individual is not entitled to a licence if—
  - (a) the individual holds an interstate or New Zealand licence that is suspended; or
  - (b) the individual—
    - (i) held an interstate or New Zealand licence that was cancelled; and
    - (ii) does not hold an interstate or New Zealand licence that is in force.

## 16 Application for licence

An application for a licence must—

- (a) be made to the commissioner; and
- (b) be in the approved form; and
- (c) be accompanied by—
  - (i) evidence of the applicant's qualifications and practical experience; and
  - (ii) the fee prescribed by regulation; and
  - (iii) if the applicant is licensed by an interstate or New Zealand licensing authority—written details of any conditions of the licence.

*Note—*

An application for a licence and an application for an endorsement on a licence may be made at the same time. See section 27.

## 17 Inquiry about applicant

- (1) The commissioner may investigate an applicant, including whether or not the applicant has been convicted of an offence against this Act or the repealed Act.

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- (2) The commissioner may, by notice given to the applicant within 20 business days after the commissioner receives the application, require the applicant within a reasonable period of at least 20 business days stated in the notice—
  - (a) to give the commissioner the further information the commissioner reasonably requires to decide the application; and
  - (b) to undergo a written, oral or practical examination at a reasonable place to assess the applicant's ability to competently practise the plumbing and drainage trade.
- (3) The commissioner may require the information mentioned in subsection (2)(a) to be verified by a statutory declaration.
- (4) The applicant is taken to have withdrawn the application if the applicant does not comply with the notice within the stated period.

## **18 Extending decision period for application**

- (1) This section applies if the commissioner needs to extend the decision period for an application for a licence because of the complexity of the issues that must be considered in deciding the application.

*Example—*

an application requiring the commissioner to obtain and consider information about the applicant from a foreign licensing authority

- (2) The commissioner may at any time before the end of the decision period give notice to the applicant that—
  - (a) because of the complexity of the issues that must be considered in deciding the application, the commissioner needs to extend the decision period; and
  - (b) the period within which the commissioner must decide the application is extended to a stated day that is 20 business days after the end of the decision period.

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- (3) Also, the applicant and commissioner may, at any time before the end of the decision period for the application, agree in writing on a day by which the application must be decided.
- (4) In this section—
- decision period***, for an application for a licence, means 20 business days after the commissioner receives—
- (a) if the applicant was required to give information under section 17(2)(a)—the information; or
  - (b) if the applicant was required to undergo an examination under section 17(2)(b)—the results of the examination; or
  - (c) otherwise—the application.

## 19 Deciding application

- (1) The commissioner must consider an application for a licence and decide to—
- (a) grant the licence; or
  - (b) grant a provisional licence for the class of licence applied for; or
  - (c) refuse to grant a licence.
- (2) The commissioner may grant a provisional licence to the applicant only if—
- (a) the commissioner reasonably believes the applicant needs more practical experience before being granted the licence applied for; or
  - (b) the commissioner reasonably believes the applicant does not have the qualifications required under section 15(1), but does have enough practical experience to be able to carry out work under the provisional licence; or
  - (c) the applicant holds a corresponding licence; or
  - (d) the commissioner reasonably believes the applicant has the qualifications and practical experience required under section 15(1), but requires evidence, or further

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evidence, of the qualifications and experience to be given to the commissioner.

(3) If, at the end of the decision period for the application, the commissioner has failed to decide the application, the failure is taken to be a decision to refuse to grant a licence.

(4) In this section—

*corresponding licence* means—

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

*decision period*, for an application for a licence, means—

- (a) if there is no extended period or agreed day for deciding the application under section 18—20 business days after the commissioner receives—
  - (i) if the applicant was required to give information under section 17(2)(a)—the information; or
  - (ii) if the applicant was required to undergo an examination under section 17(2)(b)—the results of the examination; or
  - (iii) otherwise—the application; or
- (b) if there is an extended period or agreed day for deciding the application under section 18—the extended period or the period ending on the agreed day.

## **20 Imposing conditions on licence**

The commissioner may grant a licence on the conditions the commissioner considers necessary or desirable for the licensee to competently practise the plumbing and drainage trade.



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## **21 Steps to be taken after application decided**

- (1) If the commissioner decides to grant a licence to an applicant, the commissioner must as soon as practicable issue a licence to the applicant.
- (2) Subsection (3) applies if the commissioner decides to—
  - (a) grant a licence on conditions; or
  - (b) grant a provisional licence; or
  - (c) refuse to grant a licence.
- (3) The commissioner must give the applicant an information notice about the decision as soon as practicable after making the decision.

*Note—*

For reviews of the decision, see the *Queensland Building and Construction Commission Act 1991*, part 7, division 3.

- (4) If the commissioner grants a licence on conditions, the information notice must also state the non-review period for the conditions.
- (5) If the commissioner decides to refuse to grant a licence or the application is withdrawn, the commissioner must refund the application fee paid, less the amount of the cost to the commissioner of processing the application.

## **22 Form of licence**

A licence must state—

- (a) the licensee's name; and
- (b) the expiry date of the licence; and
- (c) the licence number; and
- (d) the licence class; and
- (e) any conditions of the licence.

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## **23 Duration of licence**

A licence remains in force for the period stated in the licence of not more than—

- (a) for a provisional licence—1 year; or
- (b) for another licence—5 years.

## **Division 3 Upgrading provisional licences**

### **24 Commissioner may upgrade provisional licence**

- (1) This section applies if—
  - (a) an individual applied for a licence; and
  - (b) the commissioner granted a provisional licence to the individual; and
  - (c) the individual’s provisional licence has not expired; and
  - (d) the individual satisfies the commissioner about an issue that caused the commissioner to grant the provisional licence to the individual instead of the licence applied for.
- (2) The commissioner may, without another application being made under division 2, grant the individual the licence originally applied for, with or without any conditions imposed on the provisional licence.
- (3) The provisional licence is cancelled if a licence is granted under subsection (2).

## **Division 4 Endorsements**

### **25 Endorsements on licences**

- (1) The commissioner may make an endorsement on a licence that the holder of the licence may carry out particular plumbing or drainage work.

- (2) The scope of work for a particular endorsement on a licence is the scope of work prescribed by regulation for the endorsement.
- (3) The holder of a licence that has an endorsement may carry out the particular plumbing or drainage work for which the endorsement is made on the licence in addition to the plumbing or drainage work for which the licence is granted.
- (4) An endorsement on a licence remains in force for the period stated on the licence for the endorsement but no longer than the period for which the licence remains in force.

## **26 Qualifications and practical experience required for endorsement**

The commissioner must—

- (a) decide the qualifications and practical experience that an individual must have for an endorsement to be made on the individual's licence; and
- (b) publish on QBCC's website the required qualifications and practical experience for the endorsement.

## **27 Entitlement to endorsement**

- (1) An individual is entitled to an endorsement on a licence if, on application by the individual, the commissioner is satisfied the individual has the qualifications and practical experience for the endorsement.
- (2) A licensee may apply to the commissioner for an endorsement on the licensee's licence at any time.
- (3) An individual who has applied for a licence may, together with or after making the application, apply for an endorsement on the licence if the licence is issued.

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## **28 Application for endorsement**

An application for an endorsement to be made on a licence must—

- (a) be made to the commissioner; and
- (b) be in the approved form; and
- (c) be accompanied by—
  - (i) evidence of the applicant’s qualifications and practical experience; and
  - (ii) the fee prescribed by regulation.

## **29 Deciding application**

- (1) The commissioner must consider an application for an endorsement to be made on a licence and decide to—
  - (a) grant the application; or
  - (b) refuse to grant the application.
- (2) If the commissioner decides to refuse to grant the application, the commissioner must give the applicant an information notice about the decision as soon as practicable after making the decision.

*Note—*

For reviews of the decision, see the *Queensland Building and Construction Commission Act 1991*, part 7, division 3.

# **Division 5 Renewing licences**

## **30 Notice of expiry of licence**

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

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### **31 Application to renew licence**

- (1) A licensee, other than a provisional licensee, may apply to the commissioner to renew the licensee's licence.
- (2) The application must—
  - (a) be made before the licence expires; and
  - (b) be in the approved form; and
  - (c) be accompanied by the fee prescribed by regulation.
- (3) The fee mentioned in subsection (2)(c) is the reduced fee prescribed by regulation if the applicant gives the commissioner a statutory declaration stating the applicant—
  - (a) is retired; and
  - (b) does not intend to carry out plumbing or drainage work for payment after the licence is renewed.
- (4) If a licensee applies to renew the licensee's licence on or before the day it would otherwise expire, the licence continues in force from the day the licence would have expired until the day a new licence is issued to the applicant under section 32(1).
- (5) However, subsection (4) does not apply to a licence that is suspended or otherwise ends under this Act.
- (6) If a licensee does not apply to renew the licensee's licence on or before the day the licence expires, the licence expires at the end of the day.
- (7) Subsection (6) applies whether or not the commissioner has complied with section 30 in relation to the expiry.
- (8) If an application does not comply with subsection (2), the commissioner must, as soon as practicable, tell the applicant how the application does not comply.

### **32 Deciding application**

- (1) If an application to renew a licence complies with section 31(2), the commissioner must, as soon as practicable, issue a new licence to the applicant.

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- (2) The licence is subject to the same conditions as the licence that expired or is due to expire.
- (3) If the application does not comply with section 31(2), the commissioner must—
  - (a) refuse to renew the licence; and
  - (b) give the applicant an information notice about the decision.
- (4) If an endorsement was made on the licence that expired or is due to expire, the commissioner must make the endorsement on the renewed licence unless the commissioner is satisfied the licensee is no longer entitled to have the endorsement made on the licence.

*Note—*

For reviews of the decision, see the *Queensland Building and Construction Commission Act 1991*, part 7, division 3.

## **Division 6                      Restoring expired licences**

### **33            Application to restore licence**

- (1) If a licence has expired, the person who was the licensee for the licence may apply to the commissioner to restore the licence.
- (2) The application must—
  - (a) be made within 1 year after the day the licence expired; and
  - (b) be in the approved form; and
  - (c) be accompanied by the fee prescribed by regulation.
- (3) The fee mentioned in subsection (2)(c) is the reduced fee prescribed by regulation if the applicant gives the commissioner a statutory declaration stating the applicant—
  - (a) is retired; and

- (b) does not intend to carry out plumbing or drainage work for payment after the licence is restored.
- (4) If the application does not comply with subsection (2), the commissioner must, as soon as practicable, tell the applicant how the application does not comply.

### **34 Deciding application**

- (1) If an application to restore a licence complies with section 33(2), the commissioner must, as soon as practicable, restore the licence to the applicant.
- (2) The licence is subject to the same conditions as the licence that expired.
- (3) If the application does not comply with section 33(2), the commissioner must—
  - (a) refuse to restore the licence; and
  - (b) give the applicant an information notice about the decision.
- (4) If an endorsement was made on the licence that expired, the commissioner must make the endorsement on the restored licence unless the commissioner is satisfied the licensee is no longer entitled to have the endorsement made on the licence.

*Note—*

For reviews of the decision, see the *Queensland Building and Construction Commission Act 1991*, part 7, division 3.

## **Division 7                      Reviewing licence conditions**

### **35 Review of licence conditions started by licensee**

- (1) A licensee may apply to the commissioner for a review of the conditions of the licensee's licence.
- (2) However, the application may not be made—
  - (a) during the non-review period for the conditions; or

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- (b) if the licensee has applied to QCAT for a review of the decision to impose the conditions—while QCAT is reviewing the decision.
- (3) The application must—
  - (a) be in the approved form; and
  - (b) be accompanied by the fee prescribed by regulation.

### **36 Review of licence conditions started by commissioner**

- (1) This section applies if, during the non-review period for the conditions of a licence, the commissioner reasonably believes the conditions may no longer be appropriate.
- (2) The commissioner may, with the written agreement of the licensee, review the conditions.

### **37 Requiring further information to decide application**

- (1) For making a decision about reviewing the conditions of a licence, the commissioner may, by notice given to the licensee, require the licensee to give the commissioner, within a stated period, the further information the commissioner reasonably requires to make the decision.
- (2) The stated period must be at least 20 business days.
- (3) The commissioner may require the information to be verified by a statutory declaration.
- (4) The commissioner must give the notice to the licensee within—
  - (a) if the review is started by application of the licensee—40 business days after receiving the application; or
  - (b) if the review is started by agreement between the commissioner and the licensee—20 business days after making the agreement.
- (5) If the licensee fails to comply with the notice within the stated period—



- (a) for a review started by application of the licensee—the application is taken to be withdrawn; and
- (b) for a review started by agreement between the commissioner and the licensee—the commissioner is taken to have decided to confirm the conditions.

### **38 Decision on review of licence conditions**

- (1) After reviewing the conditions of a licence, the commissioner must decide to—
  - (a) confirm the conditions; or
  - (b) change the conditions; or
  - (c) remove the conditions.
- (2) In making the decision, the commissioner must consider whether the conditions remain necessary or desirable for the licensee to competently carry out plumbing or drainage work.
- (3) The commissioner may confirm or change the conditions only for the reasons the conditions were first imposed.
- (4) If the commissioner decides to confirm or change the conditions, the commissioner must as soon as practicable—
  - (a) also decide the non-review period applying to the confirmed or changed conditions; and
  - (b) give the licensee an information notice about the decision that also states the non-review period.

*Note—*

For reviews of the decision, see the *Queensland Building and Construction Commission Act 1991*, part 7, division 3.

- (5) If the commissioner decides to change the conditions, the information notice must also direct the licensee to return the licence to the commissioner within 10 business days after receiving the notice.
- (6) If the commissioner decides to remove the conditions, the commissioner must give notice of the decision to the licensee as soon as practicable after making the decision.

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- (7) The commissioner is taken to confirm the conditions if the commissioner fails to make a decision about the review within 40 business days after—
  - (a) if the review is started by application of the licensee—receiving the application; or
  - (b) if the review is started by agreement between the commissioner and the licensee—making the agreement.
- (8) However, if the commissioner required the licensee to give the commissioner further information for the review, the commissioner is not taken to confirm the conditions until the end of 40 business days after receiving the information.

### **39 When decision takes effect**

- (1) The commissioner's decision takes effect when—
  - (a) if the commissioner decides to confirm the conditions—the decision is made; or
  - (b) if the commissioner decides to change the conditions—an information notice about the decision is given to the licensee; or
  - (c) if the commissioner decides to remove the conditions—notice of the decision is given to the licensee.
- (2) The effect of a change or removal of conditions does not depend on the licence being amended to record the change or removal.

### **40 Returning licence for amendment or replacement**

- (1) This section applies if a licensee receives—
  - (a) an information notice, under section 38(4)(b), about a decision to change a condition; or
  - (b) a notice, under section 38(6), about a decision to remove a condition.

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- (2) The licensee must return the licensee's licence to the commissioner within 10 business days after receiving the notice, unless the licensee has a reasonable excuse.

Maximum penalty—10 penalty units.

- (3) On receiving the licence, the commissioner must—
- (a) amend the licence in an appropriate way and return the amended licence to the licensee; or
  - (b) if the commissioner does not consider it practicable to amend the licence—issue a replacement licence to the licensee.

## **Division 8                    Other provisions about licences**

### **41            Register of licensees**

- (1) The commissioner must keep a register of licensees.
- (2) The register must contain, for each licensee, the particulars prescribed by regulation.
- (3) The register must be kept in the way the commissioner considers appropriate, including, for example, in an electronic form.
- (4) A regulation may provide that the commissioner must make information in the register available to the public on QBCC's website.
- (5) However, any publicly available part of the register must not include the residential or email address, phone number or signature of a licensee.

### **42            Replacing licence**

- (1) A licensee may apply to the commissioner to replace the licensee's licence if it is lost, stolen, destroyed or damaged.
- (2) The application must—
  - (a) be in the approved form; and

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- (b) be accompanied by the fee prescribed by regulation.
- (3) If the commissioner is satisfied the licence has been lost, stolen, destroyed or damaged, the commissioner must issue a replacement licence to the applicant.

#### **43 Obtaining certified copy of licence**

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

#### **44 Notice of change in circumstances**

- (1) This section applies if any of the following changes happens for a licensee—
  - (a) the licensee's name, residential or email address or phone number changes;
  - (b) the licensee is convicted of an offence against this Act or the repealed Act;
  - (c) if the licensee holds an interstate or New Zealand licence—
    - (i) a condition is imposed on the licence; or
    - (ii) the licence is suspended or cancelled.
- (2) The licensee must give the commissioner notice of the change within 20 business days after the change.  
Maximum penalty—
  - (a) if the offence relates to a change of name, address or phone number—1 penalty unit; or
  - (b) if the offence relates to another change—10 penalty units.
- (3) The notice must be given in the way approved by the commissioner.

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**45 Notice of particular events to licensing authorities and other entities**

- (1) If the commissioner is aware a licensee is licensed by an interstate or New Zealand licensing authority, and any of the following events happen for the licensee, the commissioner must give notice of the event to the licensing authority—
  - (a) a licence is cancelled;
  - (b) a licence is suspended;
  - (c) conditions are imposed on a licence;
  - (d) conditions on a licence are removed.
- (2) Also, the commissioner may give notice of the event to any of the following entities if the commissioner reasonably believes the entity needs to know about the event—
  - (a) professional or industry associations of which the licensee is, or is eligible to be, a member;
  - (b) an employer of the licensee;
  - (c) another entity connected with the plumbing and drainage trade.
- (3) A notice given under this section may include the information the commissioner considers appropriate in the circumstances.
- (4) The commissioner must give a copy of a notice given under this section to the licensee to whom the notice relates.

**46 Licensee to have regard to particular guidelines**

- (1) A licensee who is carrying out plumbing or drainage work must have regard to the guidelines that are relevant to carrying out plumbing or drainage work.

*Note—*

See section 49(1)(c).

- (2) A licensee who is supervising another licensee carrying out plumbing or drainage work must have regard to the guidelines that are relevant to licensees supervising other licensees carrying out plumbing or drainage work.

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*Note—*

See section 49(1)(d).

- (3) Subsection (4) applies to a licensee who is responsible for directly supervising—
  - (a) a trainee carrying out plumbing or drainage work; or
  - (b) an unlicensed person carrying out drainage work.
- (4) The licensee must have regard to the guidelines that are relevant to licensees who are responsible for directly supervising trainees carrying out plumbing or drainage work or unlicensed persons carrying out drainage work.

*Note—*

See sections 49(1)(d) and 59(3).

## **Division 9                      Audit programs and auditing licensees**

### **47            Approved audit program**

- (1) The commissioner may prepare and approve an audit program under which the commissioner may audit licensees to find out if they have been complying with the requirements under section 83 after finishing notifiable work.
- (2) The approved audit program must state—
  - (a) the purpose of the program; and
  - (b) when the program starts; and
  - (c) the period over which the program is to be carried out; and
  - (d) criteria for selecting licensees who are to be audited; and
  - (e) if the licensees to be audited are to be selected from licensees holding licences of a particular class—a description of the class; and

- (f) how licensees selected for audit under the program will be advised that they have been selected.
- (3) The commissioner must ensure a copy of the approved audit program may be inspected at QBCC's head office.
- (4) The commissioner must publish the approved audit program on QBCC's website before the program starts.
- (5) The commissioner must ensure the approved audit program is published on QBCC's website during the period over which the program is to be carried out.

#### **48 Supplying documents or information**

- (1) This section applies if—
  - (a) a licensee is selected to be audited under an approved audit program; or
  - (b) the commissioner reasonably suspects, because of information received by the commissioner, a licensee is not, or has not been, complying with the requirements under section 83 after finishing notifiable work; or
  - (c) a person (an *employer*) who conducts a business carrying out plumbing or drainage work employs a licensee (an *employed licensee*) to whom paragraph (a) or (b) applies to carry out the work.
- (2) The commissioner or an investigator may give notice to the licensee or employer requiring the licensee or employer to give the commissioner or investigator copies of, access to, or information about, the documents described in the notice.
- (3) The notice must describe only the documents the commissioner or investigator reasonably requires to decide whether the licensee or employed licensee is, or has been, complying with the requirements under section 83.

*Examples of documents—*

invoices, receipts, bookkeeping records and statements from a financial institution

- (4) Also, the notice must state that—

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- (a) the licensee or employer must comply with the notice even though complying might tend to incriminate the licensee, employer or employed licensee or expose the licensee, employer or employed licensee to a penalty; and
  - (b) under section 97, there is a limited immunity against the use of the information in a proceeding.
- (5) The person given the notice must comply with the notice within 10 business days after receiving the notice, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (6) It is not a reasonable excuse for a person to fail to comply with the notice on the basis that complying with the notice might tend to incriminate the person or expose the person to a penalty.
- (7) In this section—
- employ* includes engage on a contract for services or commission, whether or not for reward.
- reasonably suspects* means suspects on grounds that are reasonable in the circumstances.

## **Division 10                      Disciplinary action**

### **49                      Grounds for disciplinary action**

- (1) The commissioner may take disciplinary action under section 52 against a licensee if the commissioner is satisfied the licensee has—
- (a) not competently carried out, or has been involved in the unsatisfactory carrying out of, plumbing or drainage work the licensee is authorised to carry out under the licensee’s licence; or



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- (b) directed a person to carry out permit work in a way that does not comply with the permit, or a condition of the permit, for the work; or
  - (c) in carrying out plumbing or drainage work, failed to have regard to a guideline that is relevant to the work; or
  - (d) in supervising or directly supervising plumbing or drainage work, failed to have regard to a guideline that is relevant to the supervision of the work; or
  - (e) contravened a provision of this Act; or
  - (f) been convicted of an offence against this Act, the repealed Act or the *Queensland Building and Construction Commission Act 1991*.
- (2) Also, the commissioner may take disciplinary action against a licensee who has an interstate or New Zealand licence if the commissioner is satisfied—
- (a) the interstate or New Zealand licence has been suspended or cancelled; or
  - (b) a condition has been imposed on the interstate or New Zealand licence.

## 50 Show cause notice

- (1) If the commissioner is satisfied a ground exists to take disciplinary action against a licensee, the commissioner must give the licensee a notice (a *show cause notice*) before taking the action.
- (2) The show cause notice must—
  - (a) outline the facts and circumstances forming the grounds for taking the disciplinary action against the licensee; and
  - (b) state the types of disciplinary action that may be taken under section 52; and
  - (c) invite the licensee to make an oral or written submission, within a stated period of at least 20 business

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days after the notice is given to the licensee (the *show cause period*), giving reasons why the disciplinary action should not be taken; and

- (d) state how to make a submission.

## **51 Deciding action to be taken**

- (1) The commissioner must consider all submissions made during the show cause period and decide to—
- (a) take no disciplinary action against the licensee; or
  - (b) take disciplinary action against the licensee.
- (2) However, subsection (3) applies if the commissioner is satisfied—
- (a) a ground exists to take disciplinary action against a licensee under section 49; and
  - (b) it would be reasonable in the circumstances to—
    - (i) suspend the licensee’s licence for more than 1 year; or
    - (ii) cancel the licensee’s licence.
- (3) The commissioner must refer the matter, as provided under the QCAT Act, to QCAT to decide whether or not to make an order against the licensee in relation to the matter.

*Note—*

See section 55.

## **52 Disciplinary action that may be taken by commissioner**

- (1) If the commissioner decides to take disciplinary action against a licensee, the commissioner may do 1 or more of the following—
- (a) reprimand the licensee;
  - (b) order plumbing or drainage work be rectified to comply with—

- (i) the code requirements for the work; or
  - (ii) if the work is permit work—the permit or any condition of the permit for the work;
  - (c) change conditions, or impose new conditions, on the licensee’s licence;
  - (d) suspend the licensee’s licence for a period of not more than 1 year;
  - (e) require the licensee to pay an amount of not more than the equivalent of 100 penalty units to the commissioner, within a reasonable stated period.
- (2) If the commissioner requires the licensee to pay an amount under subsection (1)(e) and the licensee does not pay the amount to the commissioner within the stated period, the commissioner may recover the unpaid amount from the licensee as a debt.

### **53 Advising licensee of decision**

- (1) If the commissioner decides to take no disciplinary action against the licensee, or to refer the matter to QCAT, the commissioner must give notice of the decision to the licensee.
- (2) If the commissioner decides to take disciplinary action against the licensee, the commissioner must give an information notice about the decision to the licensee.

*Note—*

For reviews of the decision, see the *Queensland Building and Construction Commission Act 1991*, part 7, division 3.

### **54 When suspension takes effect**

If the commissioner suspends the licensee’s licence, the licence is suspended from the day the information notice is given to the licensee.

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## **55 Referral of particular disciplinary action to QCAT**

- (1) This section applies if, under section 51(3), the commissioner refers a matter to QCAT to decide whether or not to make an order against a licensee in relation to the matter.
- (2) For hearing the matter, QCAT must be constituted by 3 members.
- (3) The members must include—
  - (a) 1 legally qualified member; and
  - (b) 1 QCAT member who has at least 10 years experience in the plumbing and drainage trade.
- (4) If, after hearing the matter, QCAT decides a ground exists to take disciplinary action against the licensee, QCAT may do 1 or more of the following—
  - (a) reprimand the licensee;
  - (b) order plumbing or drainage work be rectified to comply with—
    - (i) the code requirements for the work; or
    - (ii) if the work is permit work—the permit or any condition of the permit for the work;
  - (c) change conditions, or impose new conditions, on the licensee’s licence;
  - (d) suspend the licensee’s licence for the period decided by QCAT;
  - (e) cancel the licensee’s licence;
  - (f) order the licensee to pay an amount of not more than the equivalent of 250 penalty units to the commissioner within a reasonable stated period.
- (5) In this section—

***legally qualified member*** means a legally qualified member under the QCAT Act.

***QCAT member*** means a member under the QCAT Act.

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## Part 3                      General offences

### Division 1                  Offences about licences

#### 56            Carrying out work without appropriate licence

- (1) Subject to section 58, a person must not carry out plumbing or drainage work unless the person holds a licence for the work.

Maximum penalty—

- (a) for a first offence—250 penalty units; or
- (b) for a second offence—300 penalty units; or
- (c) for a third or later offence, or if the plumbing or drainage work is grossly defective work—350 penalty units or 1 year's imprisonment.

*Note—*

A person may be required to hold a contractor's licence under the *Queensland Building and Construction Commission Act 1991* in addition to a licence under this Act to lawfully carry out particular plumbing or drainage work. See section 42 of that Act.

- (2) An individual who contravenes subsection (1) and is liable to a maximum penalty of 350 penalty units or 1 year's imprisonment commits a crime.

#### 57            Supervising or directing work without appropriate licence

- (1) Subject to section 58, a person (a *supervisor*) must not supervise another person carrying out plumbing or drainage work unless the supervisor holds a licence for the work.

Maximum penalty—

- (a) for a first offence—250 penalty units; or
- (b) for a second offence—300 penalty units; or
- (c) for a third or later offence, or if the plumbing or drainage work is grossly defective work—350 penalty units or 1 year's imprisonment.

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- (2) Subject to section 58, a licensee must not supervise another person carrying out plumbing or drainage work unless the other person holds a licence for the work.

Maximum penalty—

- (a) for a first offence—250 penalty units; or
- (b) for a second offence—300 penalty units; or
- (c) for a third or later offence, or if the plumbing or drainage work is grossly defective work—350 penalty units or 1 year's imprisonment.

- (3) Subject to section 58, a licensee must not direct another person to carry out plumbing or drainage work unless the other person holds a licence for the work.

Maximum penalty—

- (a) for a first offence—250 penalty units; or
- (b) for a second offence—300 penalty units; or
- (c) for a third or later offence, or if the plumbing or drainage work is grossly defective work—350 penalty units or 1 year's imprisonment.

- (4) For subsections (1) and (2), a person (a *consumer*) is taken not to supervise another person carrying out plumbing or drainage work only because the consumer entered into a contract for carrying out the plumbing or drainage work, other than a contract of employment.

- (5) An individual who contravenes subsection (1), (2) or (3) and is liable to a maximum penalty of 350 penalty units or 1 year's imprisonment commits a crime.

## **58 Exemptions for ss 56 and 57**

- (1) A person does not commit an offence against section 56 or 57(1), (2) or (3) if—
- (a) the plumbing or drainage work is unregulated work; or
  - (b) the person is a trainee carrying out the plumbing or drainage work and a licensed person for the work is

- responsible for directly supervising the trainee carrying out the work; or
- (c) the person is an unlicensed person carrying out the drainage work and a licensed person for the work is responsible for directly supervising the unlicensed person carrying out the work; or
  - (d) the person is an authorised person carrying out plumbing work that is removing, repairing or replacing a prescribed water meter, and any related work; or
  - (e) the plumbing or drainage work is manufacturing—
    - (i) a WaterMark product, other than a prohibited WaterMark product; or
    - (ii) a treatment plant.
- (2) For subsection (1)(b) or (c), a licensee is responsible for directly supervising a trainee carrying out plumbing or drainage work, or an unlicensed person carrying out drainage work, if the licensee—
- (a) is the trainee’s or unlicensed person’s employer; or
  - (b) is directed by the trainee’s or unlicensed person’s employer to directly supervise the trainee or unlicensed person.

- (3) In this section—

***authorised person*** means an authorised person of a service provider under the *Water Supply (Safety and Reliability) Act 2008*.

***prescribed water meter*** means a water meter for measuring the volume of water supplied to—

- (a) a lot under the *Land Title Act 1994*, other than a lot—
  - (i) included in a community titles scheme under the *Body Corporate and Community Management Act 1997*; or

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- (ii) shown on a building units plan or group titles plan under the *Building Units and Group Titles Act 1980*; or
- (b) a separate, distinct parcel of land for which an interest is recorded in a register under the *Land Act 1994*; or
- (c) the site of a mixed use scheme under the *Mixed Use Development Act 1993*; or
- (d) a primary thoroughfare or secondary thoroughfare under the *Integrated Resort Development Act 1987* or the *Sanctuary Cove Resort Act 1985*; or
- (e) a premises group within the meaning of the *Water Supply (Safety and Reliability) Act 2008*, schedule 3.

## **59 Directly supervising trainees or unlicensed persons**

- (1) If a licensee is responsible for directly supervising a trainee carrying out plumbing or drainage work or an unlicensed person carrying out drainage work under section 58(1)(b) or (c), the licensee must—
  - (a) provide direction to the trainee or unlicensed person on how to carry out the work; and
  - (b) ensure the work complies with this Act.Maximum penalty—100 penalty units.
- (2) For subsection (1), a licensee is responsible for directly supervising a trainee carrying out plumbing or drainage work, or an unlicensed person carrying out drainage work, if the licensee—
  - (a) is the trainee’s or unlicensed person’s employer; or
  - (b) is directed by the trainee’s or unlicensed person’s employer to directly supervise the trainee or unlicensed person.
- (3) A licensee contravenes subsection (1) if the licensee fails to have regard to a guideline that is relevant to licensees directly



supervising trainees carrying out plumbing or drainage work or unlicensed persons carrying out drainage work.

## **60 Contravening licence conditions**

A licensee must not contravene a condition of the licensee's licence.

Maximum penalty—100 penalty units.

## **61 Limits on provisional licensees**

- (1) A provisional licensee must not carry out plumbing or drainage work under the licensee's provisional licence unless supervised by a person who holds a licence to carry out the work.

Maximum penalty—100 penalty units.

- (2) This section does not apply to plumbing or drainage work that is work mentioned in section 58(1)(a), (d) or (e).

## **62 Returning suspended or cancelled licence**

- (1) This section applies if the commissioner or QCAT suspends or cancels a licence.
- (2) The licensee must return the licence to the commissioner within 10 business days after receiving an information notice about the suspension or cancellation, unless the licensee has a reasonable excuse.

Maximum penalty—10 penalty units.

- (3) If the licence is suspended, the commissioner must return the licence to the licensee as soon as practicable after the suspension ends.
- (4) In this section—

*licensee*, for a cancelled licence, means the person who was the licensee for the licence while the licence was in force.

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### **63 Surrendering licence**

- (1) A licensee may surrender the licensee's licence by notice given to the commissioner.
- (2) The surrender takes effect—
  - (a) on the day the notice is given to the commissioner; or
  - (b) if a later day is stated in the notice—on the later day.
- (3) The licensee must return the licence to the commissioner within 10 business days after the day the surrender takes effect, unless the licensee has a reasonable excuse.

Maximum penalty—10 penalty units.

## **Division 2                      Offences about carrying out plumbing or drainage work**

### **64 Complying with code requirements for plumbing and drainage work**

- (1) A person who carries out plumbing or drainage work must ensure the work complies with the code requirements for the work.

Maximum penalty—100 penalty units.

- (2) A person who prepares a plan for plumbing or drainage work must ensure the plan complies with the code requirements for the work.

Maximum penalty—100 penalty units.

- (3) It is irrelevant for an offence against subsection (1) or (2) whether a permit was issued for the plumbing or drainage work.

*Note—*

See sections 9 and 46.

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## 65 Installing things as part of plumbing or drainage work

- (1) A person must not install, as part of plumbing or drainage work, a thing unless the thing is—
- (a) a WaterMark product that—
    - (i) complies with the code requirements for plumbing or drainage work; and
    - (ii) is not a prohibited WaterMark product; or
  - (b) if the thing is all or part of a secondary on-site sewage treatment plant—a thing for which a treatment plant approval has been granted; or
  - (c) if the thing is all or part of an on-site sewage treatment plant other than a secondary on-site sewage treatment plant—a thing that complies with the code requirements for plumbing or drainage work; or

*Example—*

septic tank

- (d) an environmentally relevant on-site sewage facility; or
- (e) if the thing is all or part of a greywater treatment plant—a thing for which a treatment plant approval has been granted; or
- (f) a thing prescribed by regulation as a thing that is approved for installation as plumbing or drainage.

Maximum penalty—100 penalty units.

- (2) In this section—

***secondary on-site sewage treatment plant*** means an on-site sewage treatment plant that produces effluent of a quality equal to or higher than secondary quality effluent.

***secondary quality effluent*** see the Queensland Plumbing and Wastewater Code.

## 66 Permit required for permit work

- (1) A person must not carry out permit work unless—

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- (a) a permit has been issued for the work; and
- (b) the person carries out the work in compliance with the permit and any conditions of the permit.

Maximum penalty—250 penalty units.

- (2) A person must not direct another person to carry out permit work unless a permit has been issued for the work.

Maximum penalty—250 penalty units.

- (3) In a proceeding for an offence against subsection (2), it is a defence for the person to prove that the person did not know, and could not reasonably be expected to have known, that the work the person is directing another person to carry out is permit work.

## **67 Directing persons to carry out non-compliant work**

- (1) A person must not direct another person to carry out plumbing or drainage work in a way that does not comply with the code requirements for the work.

Maximum penalty—100 penalty units.

- (2) In a proceeding for an offence against subsection (1), it is a defence for the person to prove that the person did not know, and could not reasonably be expected to have known, that the way in which the person is directing another person to carry out plumbing or drainage work does not comply with the code requirements for the work.

- (3) A person must not direct another person to install, as part of plumbing or drainage work, a thing unless the thing is a thing mentioned in section 65(1)(a) to (f).

Maximum penalty—100 penalty units.

- (4) In a proceeding for an offence against subsection (3), it is a defence for the person to prove that the person did not know, and could not reasonably be expected to have known, that the thing the person is directing another person to install, as part of plumbing or drainage work, is not a thing mentioned in section 65(1)(a) to (f).

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*Note—*

See sections 9 and 46.

**68 Polluting water service provider’s water service or sewerage service provider’s sewerage system**

- (1) In carrying out plumbing work, a person must not do anything likely to pollute water in a water service provider’s water service.

Maximum penalty—250 penalty units.

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

Maximum penalty—250 penalty units.

**Division 3 Offences about use restrictions**

**69 Using plumbing or drainage before inspection certificate or final inspection certificate issued for permit work**

- (1) A person must not use plumbing or drainage that is the result of permit work, unless an inspection certificate or final inspection certificate has been issued for the permit work stating—
- (a) the work the subject of the certificate is compliant; and
  - (b) the plumbing or drainage resulting from work the subject of the certificate is operational and fit for use.

*Example—*

A permit is given to a plumber for permit work for a new house. After inspecting the permit work for the ensuite, an inspector gives the plumber an inspection certificate for the work stating the plumbing work and drainage work for the ensuite is compliant and the toilet, shower and basin are operational and fit for use. A person does not contravene this section if the person uses the toilet, shower or basin in the ensuite after the inspection certificate is given.

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When the remainder of the permit work for the house is completed and after inspecting the work, an inspector gives the plumber a final inspection certificate for the work stating all the plumbing work and drainage work for the house is compliant and all the plumbing and drainage is operational and fit for use. A person does not contravene this section if the person uses a toilet, shower, basin, sink or any other plumbing or drainage that is the result of the permit work after the final inspection certificate is given.

Maximum penalty—250 penalty units.

- (2) For subsection (1), plumbing or drainage work is *compliant* if the work complies with the matters prescribed by regulation.
- (3) This section does not apply to the following persons when testing the functionality of the plumbing or drainage, or checking the operation of a water supply system to confirm the system is operational and fit for use and that the apparatus installed in the system are functioning correctly—
  - (a) a licensee carrying out the permit work;
  - (b) a licensee supervising the carrying out of the permit work;
  - (c) an inspector.

## **70 Owner's obligation for operating and maintaining plumbing and drainage**

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

Maximum penalty—250 penalty units.

- (2) If a permit has been issued for permit work for plumbing or drainage on premises, the owner of the premises must ensure the plumbing or drainage is operated and maintained in compliance with the conditions of the permit.

Maximum penalty—250 penalty units.

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## Division 4                      Prohibitions on removing or tampering with particular devices

### 71            Backflow prevention devices

Unless authorised under this Act or another Act, a person must not—

- (a) remove a backflow prevention device installed at premises; or
- (b) do anything to a backflow prevention device installed at premises that makes the device inoperable.

Maximum penalty—250 penalty units.

### 72            Temperature control devices

(1) Unless authorised under this Act or another Act, a person must not—

- (a) remove a temperature control device installed at premises; or
- (b) do anything to a temperature control device installed at premises that makes the device inoperable.

Maximum penalty—250 penalty units.

(2) In this section—

*temperature control device* means—

- (a) a mixing valve that automatically controls the temperature from a mixed water outlet to a preselected temperature using a thermostatic element or sensor; or
- (b) a mixing valve that is temperature activated and used to control a hot water supply with cold water to deliver hot water at a lower temperature at 1 or more outlet fixtures; or
- (c) another device installed to deliver hot water at a lower temperature at 1 or more outlet fixtures.

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### **73 Tampering with water meter**

- (1) A person must not tamper with a water meter.

Maximum penalty—250 penalty units.

- (2) In this section—

*tamper*, with a water meter, includes tamper with the plumbing associated with the water meter in a way that may hinder the capacity of the meter to accurately measure the volume of water supplied to premises.

## **Division 5 Discharge and disposal offences**

### **74 Discharging toilet waste and water**

- (1) The owner of premises must ensure waste and water from a toilet or soil fixture on the premises is discharged into—

- (a) for premises in a sewered area—

- (i) the sewerage system for the area; or  
(ii) if the premises have an on-site sewage treatment plant for which there is a treatment plant testing approval—the on-site sewage treatment plant; or

- (b) for other premises—

- (i) an on-site sewage facility; or  
(ii) an environmentally relevant on-site sewage facility.

Maximum penalty—250 penalty units.

- (2) In this section—

*soil fixture* see the glossary.

*toilet* includes a bidet.



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## 75 Permissible and prohibited discharges

- (1) A person must not discharge waste into an on-site sewage facility unless the waste is sewage that the facility is designed to receive.

Maximum penalty—250 penalty units.

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

Maximum penalty—250 penalty units.

- (3) However, a person does not contravene subsection (2) only because the person discharges a substance that has a temperature greater than 38°C into an on-site sewage facility if—

- (a) the substance was used for cooking food or cleaning; and
- (b) the substance is discharged into the on-site sewage facility via a fixture on the premises on which the on-site sewage facility is installed.

- (4) In this section—

*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 sewage 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

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

*Example for 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 greater than—
  - (i) if the local government has approved a maximum temperature for the substance—the approved maximum temperature; or
  - (ii) otherwise—38°C.

## **76 Disposing of contents of on-site sewage facility**

- (1) A person must dispose of effluent from an on-site sewage facility installed on premises only—
  - (a) if the facility is installed only for testing purposes—in a way stated in the permit for the installation of the facility; or
  - (b) otherwise—

- (i) to common effluent drainage; or
- (ii) in a way stated in the permit for the installation of the facility.

Maximum penalty—250 penalty units.

- (2) The person must ensure—
- (a) the effluent does not cause an odour that unreasonably interferes, or is likely to unreasonably interfere, with the use or enjoyment of other premises; and
  - (b) any ponding or run-off of the effluent does not cause a danger or health risk to anyone; and
  - (c) any ponding or run-off of the effluent is contained—
    - (i) if there is a land application area for the effluent—on the land application area; or
    - (ii) otherwise—on the premises.

Maximum penalty—100 penalty units.

- (3) A person must dispose of the contents, other than effluent, of an on-site sewage facility only to a place, and in a way, stated in the permit for the installation of the facility.

*Example of contents other than effluent—*  
sludge

Maximum penalty—250 penalty units.

- (4) This section does not apply to effluent or other contents removed from an on-site sewage facility for testing.

## **77 Disposing of contents of greywater treatment plant**

A person must not dispose of the contents of a greywater treatment plant into the sewerage system for the area in which the plant is located, unless the person has the local government's approval.

*Example of contents—*  
sludge

Maximum penalty—100 penalty units.

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## **78 Discharging kitchen greywater**

- (1) The owner of premises must ensure kitchen greywater from plumbing or drainage on the premises is discharged into—
  - (a) for premises in a sewered area—the sewerage system for the area; or
  - (b) for premises not in a sewered area—
    - (i) a greywater use facility that includes a greywater treatment plant; or
    - (ii) an on-site sewage facility; or
    - (iii) an environmentally relevant on-site sewage facility.

Maximum penalty—250 penalty units.

- (2) If the premises are not in a sewered area, the owner of the premises 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 other premises; and
  - (b) any ponding or run-off of the greywater does not cause a danger or health risk to anyone; and
  - (c) any ponding or run-off of the greywater is contained—
    - (i) if there is a land application area for the greywater—on the land application area; or
    - (ii) otherwise—on the premises.

Maximum penalty—100 penalty units.

## **79 Discharging and using greywater, other than kitchen greywater**

- (1) This section applies to greywater, other than kitchen greywater, from plumbing and drainage on premises.
- (2) The owner of the premises 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 other premises; and
- (b) any ponding or run-off of the greywater does not cause a danger or health risk to anyone; and
- (c) any ponding or run-off of the greywater is contained—
  - (i) if there is a land application area for the greywater—on the land application area; or
  - (ii) otherwise—on the premises.

Maximum penalty—100 penalty units.

- (3) If the premises are in a sewered area, the owner of the premises must ensure the greywater is discharged—
  - (a) into a greywater use facility; or
  - (b) onto a garden or lawn on the premises using a hose or bucket; or
  - (c) into the sewerage system for the area.

Maximum penalty—250 penalty units.

- (4) If the premises are not in a sewered area, the owner of the premises must ensure the greywater is discharged—
  - (a) into a greywater use facility; or
  - (b) onto a garden or lawn on the premises using a hose or bucket; or
  - (c) into an on-site sewage facility; or
  - (d) into an environmentally relevant on-site sewage facility.

Maximum penalty—250 penalty units.

- (5) Also, the owner of premises in a sewered area must ensure the greywater is used on the premises only for—
  - (a) if the greywater is discharged into a greywater use facility that includes a greywater treatment plant that is installed on the premises and treats water to the standard

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stated for the plant in the Queensland Plumbing and Wastewater Code—

- (i) washing a vehicle, path or exterior wall of the premises; or
  - (ii) flushing a toilet; or
  - (iii) supplying cold water to a washing machine; or
  - (iv) supplying a closed loop laundry system; or
  - (v) irrigating a garden or lawn; or
- (b) otherwise—irrigating a garden or lawn.

Maximum penalty—250 penalty units.

## **80 Stormwater installation not to be connected to on-site sewage facility or sanitary drain**

- (1) The owner of premises must not allow any part of a stormwater installation for the premises to be connected to—
- (a) an on-site sewage facility; or
  - (b) a sanitary drain.

Maximum penalty—250 penalty units.

- (2) If an owner of premises becomes aware that a part of a stormwater installation for the premises is connected to an on-site sewage facility or sanitary drain, the owner must take all necessary steps to disconnect the stormwater installation from the facility or drain as soon as practicable.

Maximum penalty—250 penalty units.

- (3) In this section—

*stormwater installation*, for premises—

- (a) means roof gutters, downpipes, subsoil drains and stormwater drainage for the premises; but
- (b) does not include any part of a local government's stormwater drainage.



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*Examples—*

- 1 A plumber gives the owner of premises a quote to carry out notifiable work for the renovation of a kitchen and a bathroom. The plumber gives the owner an invoice for the notifiable work carried out for the renovation of the bathroom before the work for the renovation of the kitchen starts. The notifiable work for the renovation of the bathroom is finished when the invoice is given.  
  
The plumber later gives the owner another invoice for the notifiable work carried out for the renovation of the kitchen. The notifiable work for the renovation of the kitchen is finished when the other invoice is given.
  - 2 A plumber gives the owner of premises a quote to carry out notifiable work for the renovation of a kitchen and a bathroom. The notifiable work for the renovation of the kitchen and bathroom is finished when the plumber gives the owner an invoice for all the work.
- (4) If all or part of the work will be carried out free of charge, any notifiable work carried out free of charge is finished when the work becomes operational.

*Example—*

A plumber proposes to carry out notifiable work for the renovation of a kitchen and bathroom for a member of the plumber's family. The work will be carried out free of charge. The notifiable work is finished when all the work for the renovation of the kitchen and bathroom becomes operational.

### **83 Action after notifiable work is finished**

- (1) Subject to subsection (4), within 10 business days after notifiable work is finished, the relevant person for the work must give the following to the commissioner, unless the person has a reasonable excuse—
  - (a) a notice, in the approved form, about the work;
  - (b) the fee prescribed by regulation for giving the notice.Maximum penalty—60 penalty units.
- (2) However, the relevant person is not required to comply with subsection (1) if a permit has been issued for—
  - (a) the notifiable work; or



- (b) work that includes the notifiable work.
- (3) Subject to subsection (4), within 20 business days after the notifiable work is finished, the relevant person must give a copy of the notice, and an explanatory statement, to—
  - (a) an occupier of the premises; or
  - (b) any other person who asked the relevant person to carry out the work.

Maximum penalty—60 penalty units.

- (4) If the relevant person is a person mentioned in section 81(c), (d) or (e), the relevant person complies with subsection (1) or (3) if the relevant person or the relevant person's nominated representative complies with the subsection.
- (5) The commissioner must make a copy of the notice available to the local government.
- (6) Making a copy of the notice available to the local government does not, of itself, require the local government to inspect the notifiable work.
- (7) In this section—

*explanatory statement*, accompanying a copy of a notice given under this section, means a document that states—

  - (a) the notice was given to the commissioner; and
  - (b) how a person may inspect the notice; and
  - (c) the local government may contact an occupier to arrange for the local government to inspect the work.

## Division 7                      Other offences

### 84                      False or misleading information

- (1) A person must not, in relation to the administration of this Act, give an authority information the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

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- (2) Subsection (1) does not apply to a person if the person, when giving the information in a document—
  - (a) tells the authority, to the best of the person’s ability, how the document is false or misleading; and
  - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.
- (3) In this section—

**authority** means—

  - (a) the chief executive; or
  - (b) the commissioner; or
  - (c) the assistant commissioner; or
  - (d) the council; or
  - (e) a local government; or
  - (f) an inspector.

## **85 Misleading representation by builder, manufacturer or supplier of on-site sewage treatment plant**

- (1) This section applies to a person who builds or manufactures, or is a supplier of, an on-site sewage treatment plant.
- (2) Unless a treatment plant approval is in force for the on-site sewage treatment plant, the person must not make a representation to another person that is to the effect that or that might reasonably suggest that—
  - (a) a treatment plant approval is in force for the plant; or
  - (b) the manufacture, installation, operation, service or maintenance of the plant complies with the conditions of a treatment plant approval.

Maximum penalty—100 penalty units.

- (3) In this section—

**supplier**, of an on-site sewage treatment plant, includes a distributor or seller of on-site sewage treatment plants.

**86 False advertising or misleading representation of particular things**

A person must not advertise a thing as, or make a representation that a thing is, a thing mentioned in section 65(1)(a), (c), (d), (e) or (f) if it is not.

Maximum penalty—100 penalty units.

**87 Obstructing inspector**

- (1) A person must not obstruct an inspector exercising a power under this Act, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) If a person has obstructed an inspector, or someone helping an inspector, and the inspector decides to proceed with the exercise of the power, the inspector must warn the person that—

- (a) it is an offence to cause an obstruction unless the person has a reasonable excuse; and  
(b) the inspector considers the person's conduct an obstruction.

- (3) In this section—

*obstruct* includes assault, hinder, resist, attempt to obstruct and threaten to obstruct.

**88 Impersonating inspector**

A person must not impersonate an inspector.

Maximum penalty—100 penalty units.

## **Part 4                      Legal proceedings**

### **Division 1                General**

#### **89        Proceedings for offences**

- (1) A proceeding for an offence against this Act must start within the later of the following periods to end—
  - (a) 2 years after the commission of the offence;
  - (b) 1 year after the offence comes to the complainant's knowledge.
- (2) A statement in a complaint for an offence against this Act that the matter of the complaint came to the complainant's knowledge on a stated day is evidence the matter came to the complainant's knowledge on that day.

#### **90        Who may prosecute**

- (1) A prosecution for an offence against this Act, other than a crime, may be started only by—
  - (a) the chief executive; or
  - (b) the commissioner; or
  - (c) a person authorised in writing by the Attorney-General, the chief executive or the commissioner, either generally or in a particular case, to start the prosecution; or
  - (d) the local government for the local government area in which the offence was allegedly committed.
- (2) The authorisation required by subsection (1)(c) is to be presumed in the absence of evidence to the contrary.

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## **Division 2                      Evidence**

### **91            Application of division**

This division applies to a proceeding for an offence against this Act.

### **92            Appointments and authority**

The following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

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

### **93            Signatures**

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

### **94            Authentication of council documents**

A document made by the council is sufficiently made if the document is signed by the assistant commissioner.

### **95            Other evidentiary aids**

- (1) A certificate purporting to be signed by the chief executive, commissioner, chairperson or assistant commissioner and stating any of the following matters is evidence of the matter—

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- (a) a stated document is 1 of the following things made, granted, 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 of licensees;
  - (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 investigator or 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 stated person was given a stated notice or direction under this Act;
  - (f) on a stated day, a stated requirement was made of a stated person.
- (2) A certificate purporting to be signed by the chief executive and stating any of the following matters is evidence of the matter—
- (a) a stated document is a copy of, or an extract from or part of—
    - (i) the Plumbing Code of Australia; or
    - (ii) the Queensland Plumbing and Wastewater Code; or
    - (iii) the Queensland Development Code;
  - (b) an edition, version or part of a document mentioned in paragraph (a) was in force at a stated time or during a stated period.

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**96 Conduct of representatives**

- (1) If it is relevant to prove a person's state of mind about particular conduct, 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.
- (2) 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 also been engaged in by the person unless the person proves—
  - (a) the person was not in a position to influence the representative in relation to the conduct; or
  - (b) 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.
- (3) 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.

**97 Evidential immunity for individuals complying with particular requirements**

- (1) Subsection (2) applies if an individual gives the commissioner or an investigator copies of, access to, or information about a document under section 48.

[s 98]

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- (2) Evidence of the information or document, and other evidence directly or indirectly derived from the information or document, is not admissible against the individual in any proceeding to the extent it tends to incriminate the individual, or expose the individual to a penalty, in the proceeding.
- (3) Subsection (2) does not apply to—
  - (a) a proceeding about the false or misleading nature of the information or anything in the document or in which the false or misleading nature of the information or document is relevant evidence; or
  - (b) a proceeding against a licensee for an offence against this Act; or
  - (c) a disciplinary proceeding against a licensee under part 2, division 10.

## Division 3                      Payment of penalties and fines

### 98                      Payment of particular penalties and fines

- (1) A penalty recovered because of a proceeding for an offence against this Act for which the commissioner, or a person authorised by the commissioner, is the complainant must be paid to QBCC.
- (2) A fine recovered because of an infringement notice for an offence against this Act, and for which QBCC is the administering authority, must be paid to QBCC.
- (3) In this section—  
*administering authority*, for an infringement notice, see the *State Penalties Enforcement Act 1999*, schedule 2.



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## **Part 5 Administration by QBCC**

### **Division 1 Functions of commissioner**

#### **99 Plumbing and drainage functions of commissioner**

The commissioner has the following functions for the plumbing and drainage trade—

- (a) administering the licensing system under part 2;
- (b) monitoring the operation of the licensing system and, if necessary, recommending changes;
- (c) promoting acceptable standards of competence for the plumbing and drainage trade;
- (d) receiving and investigating complaints about plumbing or drainage work for which a licence is required;
- (e) approving audit programs and auditing licensees to monitor and enforce compliance with the requirements under section 83 after finishing notifiable work;
- (f) performing any other functions given to the commissioner under this Act or the *Queensland Building and Construction Commission Act 1991*.

*Note—*

For powers of the commissioner, see the *Queensland Building and Construction Commission Act 1991*, section 20J(3).

### **Division 2 Assistant commissioner**

#### **100 Appointment of assistant commissioner**

- (1) There is an assistant commissioner for this Act.
- (2) The assistant commissioner is—
  - (a) appointed by the commissioner; and

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- (b) employed under the *Queensland Building and Construction Commission Act 1991*, section 29F.

## **101 Functions and powers of assistant commissioner**

- (1) The assistant commissioner is responsible for—
  - (a) helping the council perform its functions; and
  - (b) performing a function given to the assistant commissioner under this Act or another Act.
- (2) The assistant commissioner has all the powers reasonably necessary for carrying out the assistant commissioner's responsibilities.

## **102 Reports to the council**

- (1) The chairperson or 4 members of the council may ask the assistant commissioner to give a report to the council about—
  - (a) the administration of the licensing system under part 2, including details of licences granted by the commissioner; or
  - (b) the administration of part 2, division 10, including details of disciplinary action carried out by the commissioner; or
  - (c) offences under this Act for which the commissioner or an investigator has served an infringement notice; or
  - (d) other functions performed by the commissioner under this Act.
- (2) The assistant commissioner must give the report to the chairperson as soon as practicable after the request is made.
- (3) In this section—

*member* includes a deputy member or temporary member acting for a member.

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### **103 Representation of the council at QCAT proceedings**

- (1) This section applies to a proceeding before QCAT in relation to an external review application for an internal review decision.
- (2) The assistant commissioner may act for the council in the proceeding.
- (3) In this section—

*external review application* means an application under the *Queensland Building and Construction Commission Act 1991*, section 87.

### **104 Delegations**

- (1) The assistant commissioner may delegate the assistant commissioner's functions under this Act, other than this power of delegation, to a QBCC officer.
- (2) In this section—

*function* includes power.

## **Division 3 Service Trades Council**

### **Subdivision 1 Establishment, functions and powers of the council**

#### **105 Establishment**

The Service Trades Council established under the repealed Act, section 5 is continued.

*Note—*

Under the *Queensland Building and Construction Commission Act 1991*, section 6(c), the Service Trades Council constitutes part of QBCC.

## 106 Functions

The council has the following functions—

- (a) conferring on national policy development and implementation for the plumbing and drainage trade;
- (b) reporting to the Minister on any issue relating to the plumbing and drainage trade—
  - (i) the Minister refers to the council; or
  - (ii) the council considers the Minister should know about;
- (c) making recommendations to the commissioner about the performance of the commissioner's functions under this Act;
- (d) establishing a panel of the council to assist the commissioner to effectively and efficiently perform the commissioner's functions under part 2, divisions 1 to 7;
- (e) establishing other panels to assist the council to effectively and efficiently perform its functions;
- (f) reviewing decisions of the commissioner made under section 51;

*Note—*

The council reviews decisions under the *Queensland Building and Construction Commission Act 1991*, section 86C as an internal reviewer.

- (g) performing other functions relating to the plumbing and drainage trade given to the council under this Act or another Act.

## 107 Powers

- (1) The council has the power to do all things reasonably necessary to be done for performing its functions.
- (2) Without limiting subsection (1), the council has the powers given to it under this Act or another Act.

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## 108 Delegations

- (1) The council may delegate its functions under this Act, other than the following, to a QBCC officer or a panel member—
  - (a) its function of making an internal review decision for a decision of the commissioner under section 51;
  - (b) this power of delegation.
- (2) In this section—

*function* includes power.

## Subdivision 2 Membership of the council

### 109 Appointing members

- (1) The council consists of members appointed by the Governor in Council.
- (2) The Governor in Council decides the number of members.
- (3) However, the membership must consist of—
  - (a) the assistant commissioner, as a representative of QBCC; and
  - (b) at least 1 representative of—
    - (i) the department in which this Act is administered; and
    - (ii) the department in which the *Further Education and Training Act 2014* is administered; and
    - (iii) the department in which the *Public Health Act 2005* is administered; and
    - (iv) the Air Conditioning and Mechanical Contractors Association of Qld Ltd ABN 45 694 735 802; and
    - (v) the Communications, Electrical and Plumbing Union, Plumbing Division, Queensland Branch; and

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- (vi) the Institute of Plumbing Inspectors Qld Inc ABN 49 313 209 667; and
  - (vii) the Local Government Association of Queensland Ltd ACN 142 783 917; and
  - (viii) the Master Plumbers Association of Queensland Union of Employers ABN 88 820 301 638; and
  - (ix) the National Fire Industry Association Queensland Inc ABN 84 212 294 867; and
- (c) an individual nominated as a representative of consumers by the chief executive of the department in which the *Fair Trading Act 1989* is administered.

## **110 Appointing deputy members**

- (1) The Governor in Council may appoint a person (a *deputy member*) to act for a member—
  - (a) in the member's absence; or
  - (b) if the member becomes disqualified under section 112.
- (2) In appointing a deputy member to act for a member mentioned in section 109(3)(b), the Governor in Council must appoint a person who represents the entity or interest that the member represents.
- (3) In acting for a member, a deputy member has the same duties, powers, protection and rights as the member but can not be appointed as chairperson or deputy chairperson.

## **111 Appointing temporary members**

- (1) The Minister may appoint a person (a *temporary member*) to act for a member while the member is absent on approved leave under section 119 if—
  - (a) there is no deputy member for the member; or
  - (b) there is a deputy member for the member but the deputy member can not act in the member's office during the leave of absence.

- (2) However, a temporary member may not be appointed to act for the chairperson or deputy chairperson.
- (3) In appointing a temporary member to act for a member mentioned in section 109(3)(b), the Minister must appoint a person who represents the entity or interest that the member represents.
- (4) A temporary member has the same duties, powers, protection and rights as the member during the member's leave of absence.

## 112 Disqualification as member, deputy member or temporary member

- (1) A person is disqualified from becoming, or continuing as, a member, deputy member or temporary member if the person—
  - (a) has a recorded conviction, other than a spent conviction, for an indictable offence; or
  - (b) is, or has been, convicted of an offence against this Act; or
  - (c) is an insolvent under administration within the meaning of the Corporations Act, section 9; or
  - (d) is disqualified from managing corporations under the Corporations Act, part 2D.6.
- (2) Also, a person can not become a member, deputy member or temporary member if the person does not consent to the chief executive requesting a report and other information about the person's criminal history under section 120.
- (3) In this section—

***recorded conviction*** does not include a finding of guilt, or the acceptance of a plea of guilty, by a court, in relation to an indictable offence, if a conviction is not recorded for the offence.

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### **113 Conditions of appointment**

- (1) A member or deputy member is to be paid the remuneration and allowances decided by the Governor in Council.
- (2) For matters not provided for by this Act, a member or deputy member holds office on the conditions decided by the Governor in Council.

### **114 Term of appointment**

- (1) A member or deputy member is appointed for the term, of no more than 4 years, stated in the member's or deputy member's instrument of appointment.
- (2) However, a person's appointment as a member or deputy member ends if, during the term of the appointment, the person becomes disqualified under section 112.

### **115 Chairperson**

- (1) The chairperson of the council is the member appointed by the Governor in Council as the chairperson.
- (2) A person may be appointed as the chairperson when the person is appointed as a member.
- (3) The chairperson holds office for the term, ending no later than the person's term of appointment as a member, stated in the person's instrument of appointment as chairperson.
- (4) However, a person's appointment as chairperson ends if, during the term of appointment, the person stops being a member.

### **116 Deputy chairperson**

- (1) The deputy chairperson of the council is the member appointed by the Governor in Council as the deputy chairperson.
- (2) A person may be appointed as the deputy chairperson when the person is appointed as a member.



- (3) The deputy chairperson holds office for the term, ending no later than the person's term of appointment as a member, stated in the person's instrument of appointment as deputy chairperson.
- (4) However, a person's appointment as deputy chairperson ends if, during the term of the appointment, the person stops being a member.
- (5) The deputy chairperson must act as chairperson during—
  - (a) a vacancy in the office of chairperson; and
  - (b) all periods when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.

#### **117 Resigning as a member**

- (1) A member, deputy member or temporary member may resign by signed notice given to the Minister.
- (2) Also, a member may resign from the office of chairperson or deputy chairperson by signed notice given to the Minister.
- (3) The resignation takes effect—
  - (a) on the day the notice is given; or
  - (b) if a later day is stated in the notice—on the later day.
- (4) A member who resigns from the office of chairperson or deputy chairperson may continue to be a member.

#### **118 Vacating office**

- (1) The office of a member, deputy member or temporary member becomes vacant if the member, deputy member or temporary member—
  - (a) is disqualified under section 112; or
  - (b) resigns under section 117.
- (2) Also, the office of a member becomes vacant if—

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- (a) the member is absent from 3 consecutive council meetings of which appropriate notice has been given; and
- (b) the member does not have the council's permission to be absent or approved leave of absence under section 119.

### **119 Leave of absence for members**

- (1) The Minister may approve leave of absence of 3 or more meetings for a member.
- (2) If the deputy chairperson is absent on approved leave, the Minister may appoint another member to act in the deputy chairperson's office while the deputy chairperson is absent on approved leave.

### **120 Criminal history report**

- (1) To help decide whether a person is a suitable person to be appointed as a member, deputy member or temporary member, the chief executive may, with the person's written consent, ask the police commissioner for—
  - (a) a written report about the person's criminal history, if any; and
  - (b) a brief description of the circumstances of any conviction mentioned in the report.
- (2) If the chief executive makes a request under subsection (1), the police commissioner must comply with the request.
- (3) The duty imposed on the police commissioner applies only to information in the commissioner's possession or to which the commissioner has access.
- (4) The chief executive must destroy any information received under this section as soon as practicable after the information is no longer needed for the purpose for which the information was requested.
- (5) In this section—

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*police commissioner* means the commissioner of the Queensland Police Service.

## **121 Disclosing new convictions**

- (1) This section applies if a person who is a member, deputy member or temporary member is convicted of an offence during the term of the person's appointment.
- (2) The person must immediately give notice of the conviction to the chief executive, unless the person has a reasonable excuse.  
Maximum penalty—100 penalty units.
- (3) The notice must include—
  - (a) the existence of the conviction; and
  - (b) when the offence was committed; and
  - (c) details adequate to identify the offence; and
  - (d) the sentence imposed, if any, on the person.
- (4) The chief executive must destroy any information received under this section as soon as practicable after the information is no longer needed for the purpose for which the information was given.

## **122 Criminal history is confidential**

- (1) A person must not, directly or indirectly, disclose any information received under section 120 or 121 to another person unless the disclosure is allowed under subsection (2).  
Maximum penalty—100 penalty units.
- (2) The person may make the disclosure to another person—
  - (a) to the extent necessary to perform the person's functions under this Act; or
  - (b) for the purpose of the other person performing a function under this Act; or
  - (c) if the disclosure is authorised under an Act; or

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- (d) if the disclosure is otherwise required or permitted by law; or
- (e) if the person to whom the information relates consents to the disclosure.

### **Subdivision 3 Business of the council**

#### **123 References to members**

In this subdivision, a reference to a member includes a reference to a deputy member or temporary member acting for a member while the member is absent.

#### **124 Conduct of business**

Subject to this subdivision, the council may conduct its business, including its meetings, in the way the council considers appropriate.

#### **125 Times and places of meetings**

- (1) The chairperson decides the times and places for meetings of the council.
- (2) However, the chairperson must call a meeting if—
  - (a) the Minister or at least 4 members ask the chairperson in writing to call a meeting; or
  - (b) the assistant commissioner gives notice about an internal review application to the chairperson.
- (3) If the chairperson is given a notice about an internal review application, the meeting must be held at least 5 but no more than 14 business days after the chairperson is given the notice.
- (4) The assistant commissioner must give notice of when and where a meeting is to be held, and of the business for the meeting, to each member at least 5 business days before the day for the meeting.

(5) In this section—

*internal review application* means an application to be decided by the council as an internal reviewer under the *Queensland Building and Construction Commission Act 1991*, section 86C.

## **126 Quorum**

A quorum for a meeting of the council is 4 members.

## **127 Presiding at meetings**

- (1) The chairperson must preside at all meetings of the council at which the chairperson is present.
- (2) If the chairperson is absent from a meeting, but the deputy chairperson is present, the deputy chairperson must preside.
- (3) If the chairperson and deputy chairperson are both absent from a meeting or the offices are vacant, a member chosen by the members at the meeting must preside.

## **128 Conducting meetings**

- (1) A question at a meeting of the council is to be decided by a majority of the votes of members at the meeting.
- (2) Each member 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 who is at a meeting but abstains from voting is taken to have voted for the negative.
- (4) A meeting may be held by using any technology that reasonably allows members to hear and take part in discussions as they happen.

*Example of use of technology—*

teleconferencing

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- (5) A member who takes part in a meeting under subsection (4) is taken to be at the meeting.
- (6) A resolution is validly made by the council, even if the resolution is not passed at a meeting, if—
  - (a) notice of the resolution is given under procedures approved by the council; and
  - (b) a majority of the members agree in writing to the resolution.

## **129 Minutes**

- (1) The council must keep—
  - (a) minutes of its meetings; and
  - (b) a record of its resolutions made under section 128(6).
- (2) If asked by a member who voted against the passing of a resolution at a meeting, the council must record in the minutes of the meeting that the member voted against the resolution.

## **130 Establishing panels**

- (1) The council must establish a panel to help the commissioner to effectively and efficiently perform the commissioner's functions under part 2, divisions 1 to 7.
- (2) The functions of a panel established under subsection (1) are—
  - (a) advising and making recommendations to the commissioner about any matter about the performance of the commissioner's functions under part 2, divisions 1 to 7 that the commissioner refers to the panel; and
  - (b) other functions the council delegates to the panel.
- (3) The council may establish other panels to help the council to effectively and efficiently perform its functions.
- (4) The functions of a panel established under subsection (3) are—

- (a) advising and making recommendations to the council about any matter about the performance of the council's functions that the council refers to the panel; and
- (b) other functions the council delegates to the panel.

### **131 Panel members and other matters about panels**

- (1) The council may appoint any person, including a person who is not a member, to be a member of a panel.
- (2) A panel member is to be paid the fees and allowances decided by the Governor in Council.
- (3) The council must decide the terms of reference of a panel.
- (4) The council may decide matters about a panel that are not provided for under this Act, including, for example, the way a panel must conduct meetings.
- (5) A panel must keep a record of the decisions the panel makes when performing a function or exercising a power delegated to the panel by the council.

### **132 Disclosing interests**

- (1) This section applies if—
  - (a) a member or panel member (the *interested person*) has an interest in an issue being considered, or about to be considered, by the council or a panel; and
  - (b) the interest conflicts, or may conflict, with the proper performance of the interested person's duties about the consideration of the issue.
- (2) After the interested person becomes aware of the conflict or potential conflict, the interested person must disclose the nature of the interest to a meeting of the council or panel.
- (3) The interested person must not be present when the council or panel considers the issue, unless the council or panel otherwise directs.

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- (4) The interested person must not take part in a decision of the council or panel about the issue, unless the council or panel otherwise directs.
- (5) The interested person must not be present when the council or panel is considering whether to give a direction under subsection (3) or (4).
- (6) If there is another person who must, under subsection (2), also disclose an interest in the issue, the other person must not—
  - (a) be present when the council or panel is considering whether to give a direction under subsection (3) or (4);  
or
  - (b) take part in making the decision about giving the direction.
- (7) Subsection (8) applies if—
  - (a) because of this section, the interested person is not present at a council or panel meeting for considering or deciding an issue or deciding whether to give a direction under subsection (3) or (4); and
  - (b) there would be a quorum if the interested person were present.
- (8) The remaining members or panel members present are a quorum of the council or panel for considering or deciding the issue, or for considering or deciding whether to give the direction, at the meeting.
- (9) A person who represents an entity under section 109(3)(b) is not an interested person at a meeting of the council or panel only because the meeting is about another person who is a member of, or associated with, the entity.
- (10) A disclosure under subsection (2) must be recorded in the council's minutes or panel's record of decisions.



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## Division 4                      Investigators

### 133      Investigator to have regard to particular guidelines

In performing an investigator's function, an investigator must have regard to the guidelines that are relevant to performing the function.

## Part 6                              Role of local governments

### Division 1                      Preliminary

#### 134      Local laws and local planning instruments

- (1) This Act is not intended to exclude or limit the making of a local law or local planning instrument about plumbing or drainage work that is not inconsistent with this Act.

*Note—*

This Act prevails to the extent of any inconsistency with a local law about plumbing or drainage work. See the *City of Brisbane Act 2010*, section 28 and the *Local Government Act 2009*, section 27.

- (2) In this section—

*local planning instrument* see the *Planning Act 2016*, section 8(3).

### Division 2                      Administrative matters

#### 135      Administration by local governments and other entities

- (1) Each local government is responsible for administering this Act within its local government area.
- (2) However, if an area within a local government area is not under the local government's control, the entity that has

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control of the area is responsible for administering this Act within the area.

*Example of an entity, other than a local government, that has control of an area—*

Weipa Town Authority

- (3) Subsection (4) applies if—
  - (a) an area within a local government area is not under the local government's control; or
  - (b) an area next to a local government area is not part of the local government area.
- (4) The local government for the area may, if asked by the entity that has control of the area, administer this Act within the area.

### **136 Monitoring particular greywater use facilities**

A regulation may prescribe the types of greywater use facilities a local government must monitor in its local government area to ensure each of the facilities—

- (a) is operated in compliance with the permit for the installation of the facility and any conditions of the permit; and
- (b) is not adversely affecting—
  - (i) public health or safety; or
  - (ii) the environment.

### **137 Monitoring particular on-site sewage facilities**

A regulation may prescribe the types of on-site sewage facilities a local government must monitor in its local government area to ensure each of the facilities—

- (a) is operated in compliance with the permit for the installation of the facility and any conditions of the permit; and

- (b) is not adversely affecting—
  - (i) public health or safety; or
  - (ii) the environment.

### **138 Local government to have regard to particular guidelines**

In administering this Act, a local government must have regard to the guidelines that are relevant to the administration.

## **Division 3 Plumbing and drainage inspectors**

### **139 Appointment and qualifications**

- (1) A local government may appoint an authorised person as an inspector under this Act if satisfied the person has the qualifications and experience prescribed by regulation.
- (2) An inspector holds office subject to the conditions stated in the inspector's instrument of appointment.
- (3) In this section—

*authorised person*—

- (a) for the Brisbane City Council—see the *City of Brisbane Act 2010*, section 114(2); or
- (b) for another local government—see the *Local Government Act 2009*, section 125(2).

### **140 Functions of inspectors**

An inspector's functions are to conduct investigations and inspections for monitoring and enforcing compliance with this Act and the following Acts in relation to plumbing or drainage on premises—

- (a) the *City of Brisbane Act 2010*;
- (b) the *Local Government Act 2009*;

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(c) the *Planning Act 2016*.

#### **141 Inspector to have regard to particular guidelines**

In performing an inspector's function, an inspector must have regard to the guidelines that are relevant to performing the function.

#### **142 Advising commissioner of appointment of inspectors**

A local government must—

- (a) advise the commissioner of each appointment of an inspector made by the local government; and
- (b) give the commissioner a list of the local government's inspectors as at 1 July in each year within 20 business days after that day.

### **Division 4 Enforcement by local governments**

#### **143 When enforcement notice may be given**

- (1) A local government may give a notice to a person who carried out plumbing or drainage work requiring the person to take stated action if the local government reasonably believes the work does not comply with this Act, including, for example, by not complying with the code requirements for the work.
- (2) A local government may give a notice to the owner of premises requiring the owner to take stated action if the local government reasonably believes—
  - (a) plumbing or drainage 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) can not deal with the sewage or greywater produced on the premises; or
  - (iv) is in a condition that unreasonably interferes, or is likely to unreasonably interfere, with the use or enjoyment of other premises; or
  - (v) for plumbing or drainage the subject of permit work—was installed without, or not in compliance with, a permit; or
  - (b) the premises are not in a sewered area and the absence of an on-site sewage 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, part 3, division 3, 4 or 5.
- (3) A local government may give the owner of premises a notice requiring the owner to take stated action if the local government reasonably believes plumbing on the premises has polluted or could be polluting—
- (a) the water supply in the premises; or
  - (b) a water service provider's water service.
- (4) A notice given under this section is an *enforcement notice*.

#### **144 Show cause notice**

- (1) This section applies if a local government proposes to give an enforcement notice to a person.
- (2) Unless the enforcement notice relates to plumbing or drainage that the local government reasonably believes is a danger to persons or a risk to public health, the local government must give a notice (a *show cause notice*) to the person before giving the enforcement notice.
- (3) The show cause notice must—

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- (a) outline the facts and circumstances forming the basis for the belief that an enforcement notice should be given to the person; and
- (b) invite the person to make a written submission, within a stated period of not less than 20 business days after the notice is given to the person, giving reasons why the local government should not give an enforcement notice to the person; and
- (c) state how to make a submission.

#### **145 Use of enforcement notice**

- (1) Without limiting what may be required to be done under an enforcement notice, an enforcement notice may require a person to—
  - (a) apply for a permit; or
  - (b) take, or not take, stated action to ensure plumbing or drainage work complies with this Act or a permit; or
  - (c) alter, repair or replace plumbing or drainage; or
  - (d) for an enforcement notice about plumbing polluting the water supply in premises or a water service provider's water service—
    - (i) install a backflow prevention device; or
    - (ii) register a backflow prevention device that is required to be registered under a regulation; or
    - (iii) have a backflow prevention device inspected, tested and, if necessary, repaired or replaced by a person who holds a licence for the work.
- (2) An enforcement notice may require all or part of the plumbing or drainage resulting from plumbing or drainage work to be removed if the local government reasonably believes it is not possible or practical to take steps—
  - (a) to make the plumbing or drainage resulting from plumbing or drainage work comply with the code

- requirements, a permit, or any conditions of the permit, for the plumbing or drainage work; or
- (b) if the plumbing or drainage is a danger to persons or a risk to public health—to remove the danger or risk.
- (3) An enforcement notice that requires plumbing or drainage work on premises to stop being carried out may be given by fixing the notice to the premises in a way that a person entering the premises would normally see the notice.

#### **146 Requirements for enforcement notice**

- (1) An enforcement notice must state—
- (a) the reason the person is given the notice; and
  - (b) if the notice requires a person not to take stated action—
    - (i) the period for which the requirement applies; or
    - (ii) that the requirement applies until further notice; and
  - (c) if the notice requires a person to take stated action—
    - (i) the details of the action; and
    - (ii) the period within which the action must be taken; and
  - (d) that the person may appeal to a tribunal or the Planning and Environment Court against the giving of the notice.

*Note—*

The person may start an appeal within the appeal period under the *Planning Act 2016*. See section 229 of that Act.

- (2) If a local government gives a person an enforcement notice, and the local government must give the person a show cause notice under section 144, the enforcement notice is of no effect if—
- (a) the local government did not give the show cause notice to the person; or

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- (b) the local government did not consider all submissions made in compliance with the show cause notice before giving the enforcement notice.

#### **147 Contravening, or tampering with, enforcement notice**

- (1) A person must not contravene an enforcement notice.  
Maximum penalty—250 penalty units.
- (2) A person must not deal with an enforcement notice fixed to premises under section 145(3) in a way that is reasonably likely to prevent the person who was given the notice seeing it.  
Maximum penalty—250 penalty units.

#### **148 Application for permit in response to show cause or enforcement notice**

- (1) This section applies if a person applies for a permit in response to a show cause notice or as required by an enforcement notice.
- (2) The person must not withdraw the application, unless the person has a reasonable excuse.  
Maximum penalty—250 penalty units.
- (3) The person must take all necessary and reasonable steps to enable the application to be decided as soon as practicable, unless the person has a reasonable excuse.  
Maximum penalty—250 penalty units.
- (4) If the person appeals the decision on the application, the person must take all necessary and reasonable steps to enable the appeal to be decided as soon as practicable, unless the person has a reasonable excuse.  
Maximum penalty—250 penalty units.



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## 149 Administering entity may remedy contravention

- (1) This section applies if a person contravenes an enforcement notice given by an administering entity for an area.

*Note—*

If an enforcement notice given by a local government is contravened, see the *City of Brisbane Act 2010*, section 132 or the *Local Government Act 2009*, section 142.

- (2) The administering entity for the area may—
- (a) do anything reasonably necessary to ensure the notice is complied with; and
  - (b) recover any reasonable costs and expenses incurred in doing so as a debt owing by the person to the entity.
- (3) In this section—

***administering entity***, for an area, means the entity administering this Act within the area under section 135(2).

## 150 Action notices

A regulation may provide for the giving by a local government or an inspector of a notice (an ***action notice***) to the responsible person for plumbing or drainage work to take action of the type prescribed by regulation in relation to the work.

## 151 Stay of enforcement notice or action notice

- (1) An appeal against an enforcement notice or action notice stays the operation of the notice until—
- (a) a tribunal or the Planning and Environment Court hearing the appeal decides otherwise; or
  - (b) the appeal ends.
- (2) However, an enforcement notice is not stayed if it is given because of a local government's belief mentioned in section 143(2)(a)(i), (b) or (c).

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- (3) If subsection (2) applies, the enforcement notice must state that the notice is not stayed, even if an appeal is made.

## **Part 7**                      **Miscellaneous provisions**

### **152**     **Approval of forms**

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

### **153**     **Electronic notices**

- (1) The commissioner may approve an electronic system for sending electronic communications under this Act to the commissioner or QBCC.
- (2) The chief executive may approve an electronic system for sending electronic communications under this Act to the chief executive or a local government.
- (3) A person may use a system approved under subsection (1) or (2) to give an approved form under this Act by using the system to provide the information required in the approved form.

### **154**     **Guidelines**

- (1) The chief executive may make guidelines for matters within the scope of this Act to help compliance with this Act.
- (2) Without limiting subsection (1), the chief executive may make the following guidelines—
  - (a) a guideline about carrying out plumbing or drainage work, including ways of complying with the code requirements for plumbing or drainage work;
  - (b) a guideline for licensees who supervise other licensees carrying out, or direct other licensees to carry out, plumbing or drainage work;

- (c) a guideline for licensees who are responsible for directly supervising trainees carrying out plumbing or drainage work or unlicensed persons carrying out drainage work;
  - (d) a guideline to help local governments administer this Act;
  - (e) a guideline to help inspectors perform their functions under this Act;
  - (f) a guideline to help investigators perform their functions under this Act.
- (3) The chief executive must publish the guidelines on the department's website.

## **155 Public access to documents**

- (1) A regulation may prescribe, for a person who has, or has had, powers or functions in relation to this Act—
- (a) the documents, including a register, relating to the person's functions, that the person must or may keep publicly available; and
  - (b) where, and in what form, the documents must or may be kept; and
  - (c) whether the documents, or a certified copy of the documents, must or may be kept; and
  - (d) whether the documents must or may be kept available for inspection and purchase, or for inspection only; and
  - (e) the period or periods during which the documents must or may be kept.
- (2) The person must comply with the regulation in relation to the documents prescribed for the person.

Maximum penalty—50 penalty units.

- (3) The person must not obstruct another person from inspecting or purchasing a document that must be kept available for inspection or purchase as prescribed by the regulation.

Maximum penalty—50 penalty units.

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- (4) For a document of a type prescribed by regulation, this section does not apply to the person to the extent the person reasonably considers the document contains—
- (a) information of a purely private nature about an individual, including, for example, the individual's name, residential or email address, phone number or signature; or
  - (b) sensitive security information.
- Example—*  
the location of a safe
- (5) Subsection (4) does not apply to the register of licensees kept under section 41.

## **156 Fees payable to QBCC**

- (1) Fees payable under this Act must be paid to QBCC unless a regulation provides otherwise.
- (2) QBCC must use fees and penalties for offences that are paid to QBCC to administer this Act, including monitoring and enforcing compliance with this Act.
- (3) Funds that are not immediately required for that purpose may be used for purposes that the commissioner considers advance the plumbing and drainage trade.

## **157 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may—
  - (a) 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
  - (b) provide for a maximum penalty of not more than 20 penalty units for a contravention of a regulation; or

- (c) provide for matters relating to the licensing of plumbers or drainers; or
- (d) provide for matters relating to plumbing or drainage work; or
- (e) provide for permits for permit work or notifiable work; or
- (f) provide for the inspection of permit work and notifiable work and the giving of action notices, inspection certificates or final inspection certificates for the work; or
- (g) provide for administrative matters, including the requirement for a person to give a notice to an entity, in relation to plumbing or drainage work; or
- (h) require the maintenance, testing and inspection of particular plumbing or drainage work; or
- (i) provide for approvals for—
  - (i) on-site sewage treatment plants; or
  - (ii) greywater treatment plants; or
- (j) provide requirements about reporting on servicing on-site sewage facilities, greywater use facilities or greywater treatment plants; or
- (k) provide for circumstances when a local government is not required to inspect particular plumbing or drainage work, and for the giving of notices about the work; or
- (l) require a person to carry out plumbing or drainage work on premises to comply with a requirement of this Act, and to provide for payment of the costs of carrying out the work; or
- (m) provide for a local government to recover costs from the owner of premises for costs incurred by the local government carrying out plumbing or drainage work on the premises; or

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- (n) provide for the registers the commissioner or a local government must keep and the information that must or may be included in each register.

## **Part 8                      Repeal, transitional and validation provisions**

### **Division 1                Repeal**

#### **158    Act repealed**

The Plumbing and Drainage Act 2002, No. 77 is repealed.

### **Division 2                Transitional and validation provisions**

#### **159    Members of council**

- (1) Subsection (2) applies to a person who, immediately before the commencement, was a member, deputy member or temporary member of the council under the repealed Act.
- (2) The person continues as a member, deputy member or temporary member of the council under this Act.
- (3) Subsection (4) applies to a person who, immediately before the commencement, was the chairperson or deputy chairperson of the council under the repealed Act.
- (4) The person continues as the chairperson or deputy chairperson of the council under this Act.

#### **160    Assistant commissioner**

- (1) The assistant commissioner under the repealed Act continues as the assistant commissioner under this Act.

- (2) The terms of employment that applied to the assistant commissioner immediately before the commencement are the assistant commissioner's terms of employment on the commencement.

## **161 Licence applications**

- (1) Subsection (2) applies if—
  - (a) an application was made under the repealed Act for a new licence, to renew or replace a current licence or to restore an expired licence; and
  - (b) the application was not decided or withdrawn before the commencement.
- (2) The application must be decided under the repealed Act as if this Act had not been enacted.
- (3) Section 162 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.

## **162 Licences**

- (1) A licence issued under the repealed Act and in force immediately before the commencement continues as a licence under this Act on the same conditions.
- (2) If an endorsement was made on a licence issued under the repealed Act and in force immediately before the commencement, the licence is taken to have the same endorsement under this Act.

## **163 Disciplinary action**

If the QBCC commissioner under the repealed Act had started but not finished disciplinary action under that Act before the commencement, the action may be finished by the commissioner under the repealed Act as if this Act had not been enacted.

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## **164 Permits and certificates**

- (1) A compliance permit issued under the repealed Act and in force immediately before the commencement is taken to be a permit under this Act, and continues on the same conditions.
- (2) A compliance certificate that approves compliance assessable work, issued under the repealed Act and in force immediately before the commencement, is taken to be—
  - (a) if the compliance assessable work constitutes all of the work authorised by the compliance permit for the work—a final inspection certificate for the work; or
  - (b) otherwise—an inspection certificate for the work.

## **165 Compliance requests for compliance assessment of plan for plumbing or drainage work**

- (1) This section applies if—
  - (a) a compliance request for compliance assessment of a plan for plumbing or drainage work was made under the repealed Act, part 4, division 3; and
  - (b) the request was not decided before the commencement.
- (2) The compliance request must be decided under the repealed Act as if this Act had not been enacted.

## **166 Compliance requests for compliance assessment of plumbing or drainage work**

- (1) This section applies if, after a compliance request for compliance assessment of a plan for plumbing or drainage work was made and decided under the repealed Act, part 4, division 3—
  - (a) a request for compliance assessment of the plumbing or drainage work was made under the repealed Act, part 4, division 4; and
  - (b) the request was not decided before the commencement.



- (2) The request must be decided under the repealed Act as if this Act had not been enacted.

## **167 Information requests**

- (1) Subsection (2) applies if—
  - (a) an information request was made under the repealed Act relating to a compliance request for compliance assessment of a plan for plumbing or drainage work; and
  - (b) the information the subject of the request was not given before the commencement; and
  - (c) the period allowed under the repealed Act for the information to be provided had not ended before the commencement.
- (2) The information request must be dealt with under the repealed Act as if this Act had not been enacted.
- (3) Subsection (4) applies if—
  - (a) an information request was made under the repealed Act relating to an application for a chief executive approval; and
  - (b) the information the subject of the request was not given before the commencement; and
  - (c) the period allowed under the repealed Act for the information to be provided had not ended before the commencement.
- (4) The information request must be dealt with under the repealed Act as if this Act had not been enacted.

## **168 Applications for chief executive approval**

- (1) This section applies if—
  - (a) an application was made under the repealed Act for a chief executive approval; and

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- (b) the application was not decided or withdrawn before the commencement.
- (2) The application must be decided under the repealed Act as if this Act had not been enacted.

### **169 Chief executive approvals**

A chief executive approval issued under the repealed Act and in force immediately before the commencement is taken to be a treatment plant approval issued under this Act, and continues on the same conditions.

### **170 Inspectors**

- (1) A person who, immediately before the commencement, was an inspector under the repealed Act is an inspector under this Act without the need for a new appointment under section 139(1).
- (2) An appointment mentioned in subsection (1) is subject to this Act, including, for example, when the appointment ends.

### **171 Enforcement notices**

An enforcement notice relating to plumbing or drainage work given under the repealed Act and in force immediately before the commencement is taken to be an enforcement notice given under this Act.

### **172 Plumbing or drainage work**

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

### **173 References to repealed Act and regulations**

- (1) This section applies if an Act or document refers to—

- 
- (a) the repealed Act; or
  - (b) the *Plumbing and Drainage Regulation 2003*; or
  - (c) the *Standard Plumbing and Drainage Regulation 2003*.
- (2) The reference may, if the context permits, be taken to be a reference to this Act.

**173A Holder of particular licence taken to hold associated occupation licence in relevant period**

- (1) This section applies to a person if—
- (a) either—
    - (i) the person held a contractor’s licence under the *Queensland Building and Construction Commission Act 1991* of 1 of the following classes of licence in any period from 10 November 2014 to the commencement (the *relevant period*)—
      - (A) a plumbing and drainage licence;
      - (B) a drainage licence;
      - (C) a drainage—on-site sewerage facility licence (maintenance);
      - (D) a drainage—on-site sewerage facility licence (maintenance and installation);
      - (E) a plumbing and draining restricted to plumbing licence;
      - (F) a plumbing and draining restricted to tanks—water supply licence; or
    - (ii) the person held a nominee supervisor’s licence or site supervisor’s licence under the *Queensland Building and Construction Commission Act 1991* of 1 of the following classes of licence in the relevant period—
      - (A) a plumbing and drainage licence;
      - (B) a drainage licence;

[s 173A]

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- (C) a drainage—on-site sewerage facility licence (maintenance);
  - (D) a drainage—on-site sewerage facility licence (maintenance and installation); and
- (b) the person did not hold in the relevant period an associated occupational licence for the contractor’s licence, nominee supervisor’s licence or site supervisor’s licence.
- (2) The person is taken to have held for the relevant period an associated occupational licence for the contractor’s licence, nominee supervisor’s licence or site supervisor’s licence.
- (3) In this section—
- associated occupational licence*** means—
- (a) for a plumbing and drainage licence—a plumbers licence and drainers licence under the *Plumbing and Drainage Regulation 2003*, schedule 1, items 1 and 2; or
  - (b) for a drainage licence—a drainers licence under the *Plumbing and Drainage Regulation 2003*, schedule 1, item 2; or
  - (c) for a drainage—on-site sewerage facility licence (maintenance)—a drainer—on-site sewerage facility licence under the *Plumbing and Drainage Regulation 2003*, schedule 2, item 8, for the scope of work stated in item 8, column 4, paragraph (a) of the schedule; or
  - (d) for a drainage—on-site sewerage facility licence (maintenance and installation)—a drainer—on-site sewerage facility licence under the *Plumbing and Drainage Regulation 2003*, schedule 2, item 8, for the scope of work stated in item 8, column 4, paragraph (b) of the schedule; or
  - (e) for a plumbing and draining restricted to plumbing licence—a plumbers licence under the *Plumbing and Drainage Regulation 2003*, schedule 1, item 1; or

- (f) a plumbing and draining restricted to tanks—water supply licence—a plumbers licence under the *Plumbing and Drainage Regulation 2003*, schedule 1, item 1.

***drainage licence*** means the class of licence mentioned in the *Queensland Building and Construction Commission Regulation 2003*, schedule 2, part 19.

***drainage—on-site sewerage facility licence (maintenance)*** means the class of licence mentioned in the *Queensland Building and Construction Commission Regulation 2003*, schedule 2, part 19A, section 1(1).

***drainage—on-site sewerage facility licence (maintenance and installation)*** means the class of licence mentioned in the *Queensland Building and Construction Commission Regulation 2003*, schedule 2, part 19A, section 1(2).

***plumbing and drainage licence*** means the class of licence mentioned in the *Queensland Building and Construction Commission Regulation 2003*, schedule 2, part 18.

***plumbing and draining restricted to plumbing licence*** means the class of licence of that name mentioned in the *Queensland Building and Construction Commission Regulation 2003*, section 43.

***plumbing and draining restricted to tanks—water supply licence*** means the class of licence of that name mentioned in the *Queensland Building and Construction Commission Regulation 2003*, section 43.

## 174 Transitional regulation-making power

- (1) A regulation (a ***transitional regulation***) may make provision about a matter for which—
- (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of the repealed Act to the operation of this Act; and
  - (b) this Act does not provide or sufficiently provide.

[s 175]

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- (2) A transitional regulation may have retrospective operation to a day not earlier than the day this section commenced.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This section and any transitional regulation expire 1 year after the day this section commenced.

## **Part 9                      Amendment of Acts**

### **Division 1                Amendment of this Act**

#### **175    Act amended**

This division amends this Act.

#### **176    Amendment of long title**

Long title, from ‘, and to amend’—  
*omit.*

### **Division 1A              Amendment of Building Industry Fairness (Security of Payment) Act 2017**

#### **176A   Act amended**

This division amends the *Building Industry Fairness (Security of Payment) Act 2017*.

*Note—*

See also the amendments in schedule 2.

#### **176B   Amendment of s 2 (Commencement)**

Section 2—

*insert—*

- (1A) However, chapter 8, part 1A commences on the date of assent of the *Plumbing and Drainage Act 2018*.

**176C Amendment of s 8 (Definitions for chapter)**

- (1) Section 8, definitions *disputed funds account* and *retention account—*

*omit.*

- (2) Section 8—

*insert—*

*disputed funds trust account* see section 23(1)(c).

*retention trust account* see section 23(1)(b).

**176D Amendment of s 9 (What is a *project bank account*)**

- (1) Section 9(1)(b) and (3)(a), ‘under’—

*omit, insert—*

in connection with

- (2) Section 9(4)(b)—

*omit, insert—*

(b) ceases to be a beneficiary when paid all amounts it is entitled to be paid in connection with its subcontract, including a retention amount and an amount the subject of a payment dispute.

- (3) Section 9(5), definition *remainder*, paragraph (a), ‘under’—

*omit, insert—*

in connection with

[s 176E]

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## **176E Insertion of new s 10A**

After section 10—

*insert—*

### **10A When amount is liable to be paid to subcontractor**

The head contractor for a project bank account is liable to pay an amount to a subcontractor beneficiary if any of the following apply in connection with a subcontract between the head contractor and the subcontractor beneficiary—

- (a) the amount is due to be paid to the subcontractor beneficiary in connection with the subcontract;
- (b) the amount is certified, or otherwise assessed, as payable to the subcontractor beneficiary under the subcontract;
- (c) the head contractor gives the subcontractor beneficiary a payment schedule for the amount;
- (d) under section 77 the head contractor is liable to pay the amount to the subcontractor beneficiary;
- (e) the head contractor must pay the amount to the subcontractor beneficiary because of an adjudication under chapter 3, part 4 of a disputed progress payment relating to the subcontract;
- (f) the head contractor must pay the amount to the subcontractor beneficiary because of a final and binding dispute resolution process;
- (g) a court or tribunal orders the head contractor to pay the amount to the subcontractor beneficiary.



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**176F Amendment of s 11 (Who is a *supplier*)**

(1) Section 11(2)—

*omit, insert—*

(2) However, a subcontractor is not a *supplier* if the subcontractor is required under any of the following Acts to hold a licence or other authority to lawfully supply the goods or services—

- (a) the *Building Act 1975*;
- (b) the *Electrical Safety Act 2002*;
- (c) the *Plumbing and Drainage Act 2002*;
- (d) the *Queensland Building and Construction Commission Act 1991*;
- (e) another Act prescribed by regulation.

(2) Section 11(2)(c), ‘2002’—

*omit, insert—*

2018

(3) Section 11(3)—

*omit.*

**176G Amendment of s 19 (Who is a *related entity*)**

(1) Section 19(3), definition *family*, paragraph (d), after ‘sister,’—

*insert—*

aunt, uncle,

(2) Section 19(3), definition *family*, paragraph (f), after ‘person’—

*insert—*

or the person’s spouse

[s 176H]

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**176H Amendment of s 23 (Head contractor must establish project bank account)**

- (1) Section 23(1)(b), '*retention account*'—

*omit, insert—*

*retention trust account*

- (2) Section 23(1)(c), '*disputed funds account*'—

*omit, insert—*

*disputed funds trust account*

**176I Amendment of s 25 (Name of trust account)**

Section 25, 'words 'trust account''—

*omit, insert—*

word 'trust'

**176J Amendment of s 26 (Notice of trust account's opening, closing or name change)**

- (1) Section 26(2), 'written notice'—

*omit, insert—*

notice, in the approved form,

- (2) Section 26(2), '10 business days'—

*omit, insert—*

5 business days

- (3) Section 26(3), 'written notice must state the following'—

*omit, insert—*

approved form must require the following information

- (4) Section 26(3)(a)—

*omit.*

- (5) Section 26(3)(b) to (e)—

---

*renumber* as section 26(3)(a) to (d).

**176K Amendment of s 27 (All payments from principal to be deposited in project bank account)**

Section 27(1)—

*omit, insert*—

- (1) Subsection (2) applies if the principal pays an amount to the head contractor—
  - (a) under the building contract; or
  - (b) because the principal is liable under section 77 to pay the amount to the head contractor in relation to the building contract; or
  - (c) because of an adjudication under chapter 3, part 4 of a disputed progress payment relating to the building contract; or
  - (d) because of a final and binding dispute resolution process relating to the building contract; or
  - (e) because of a court order relating to the building contract; or
  - (f) for any other reason that reduces the unpaid amount of the contract price for the building contract.

**176L Amendment of s 28 (Limited purposes for which money may be deposited into project bank account)**

- (1) Section 28, after ‘trust account’—

*insert*—

, for the project bank account,

- (2) Section 28(a) and (b)—

*omit, insert*—

[s 176M]

---

- (a) paying the head contractor an amount the principal must deposit into the general trust account under section 27(2); or
- (b) paying a subcontractor beneficiary an amount the head contractor is liable to pay the subcontractor beneficiary in connection with its subcontract with the head contractor; or

**176M Amendment of s 29 (All payments to subcontractor beneficiaries to be paid from project bank account)**

Section 29(1)—

*omit, insert—*

- (1) This section applies if the head contractor is liable to pay an amount to a subcontractor beneficiary in connection with its subcontract with the head contractor.

**176N Amendment of s 30 (Head contractor to cover shortfalls)**

Section 30(2), from ‘, as soon’ to ‘available,’—

*omit, insert—*

immediately

**176O Amendment of s 31 (Limited purposes for which money may be withdrawn from project bank account)**

Section 31(1)(a)—

*omit, insert—*

- (a) paying a subcontractor beneficiary an amount the head contractor is liable to pay the subcontractor beneficiary in connection with its subcontract with the head contractor; or

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**176P Amendment of s 32 (Order of priority)**

- (1) Section 32(1)(a), ‘due to be paid to’—  
*omit, insert—*  
the head contractor is liable to pay
- (2) Section 32(1)(b), ‘retention account’—  
*omit, insert—*  
retention trust account
- (3) Section 32(2), ‘adjudication under this Act’—  
*omit, insert—*  
adjudication under chapter 3, part 4

**176Q Amendment of s 33 (Insufficient amounts available for payments)**

- (1) Section 33(1)—  
*omit, insert—*
- (1) This section applies if—
- (a) the head contractor is liable to pay 2 or more subcontractor beneficiaries (each a *claimant*) an amount from a trust account at the same time; and
  - (b) the total amount held in the trust account is insufficient to satisfy in full all of the amounts liable to be paid to the claimants; and
  - (c) at the time an amount liable to be paid to a claimant is due to be paid, the head contractor has not complied with its obligation under section 30 to cover the insufficient amount.
- (2) Section 33(2), ‘due’—  
*omit, insert—*

[s 176R]

---

liable

- (3) Section 33(2), example, ‘due’—

*omit.*

- (4) Section 33(4)—

*omit, insert—*

- (4) Nothing in this section relieves the head contractor of its liability to pay in full the amounts the head contractor is liable to pay each claimant.

### **176R Amendment of s 34 (Dealing with retention amounts)**

- (1) Section 34(1), ‘retention account’—

*omit, insert—*

retention trust account

- (2) Section 34(2) and (3)—

*omit, insert—*

- (2) If a project bank account is not established until after a retention amount is withheld from a subcontractor beneficiary, subsection (1) applies to that part of the retention amount still withheld past 5 business days after the project bank account is established.

*Note—*

Under section 15 a project bank account may be required for a building contract only after an amendment of the contract.

- (3) If subsection (2) causes the head contractor to deposit a retention amount into the retention trust account, the head contractor must give written notice of the deposit to the subcontractor beneficiary from whom the amount was withheld.

Maximum penalty—100 penalty units.

- (4) The notice of the deposit must—

[s 176S]

---

- (a) be given to the subcontractor beneficiary as soon as practicable after making the deposit; and
  - (b) state the amount of the deposit and when the deposit was made.
- (5) The head contractor must ensure a retention amount held in the retention trust account is identifiable as being held for the subcontractor beneficiary from whom it was withheld.

Maximum penalty—100 penalty units.

## **176S Insertion of new s 34A**

Chapter 2, part 3, division 5—

*insert—*

### **34A Withdrawing retention amounts held in retention trust account**

- (1) The head contractor must not withdraw any part of a retention amount held in the retention trust account unless the withdrawal is to make—
- (a) a payment to the subcontractor beneficiary from whom the amount was withheld; or
  - (b) a payment to the head contractor that is—
    - (i) to correct defects in subcontracted work, or otherwise to secure, wholly or partly, the performance of the related subcontract; and
    - (ii) made under the related subcontract; and
    - (iii) made after the end of the defects liability period for the related subcontract; or
  - (c) a payment ordered by a court; or

[s 176T]

---

- (d) a payment to a subcontractor beneficiary, engaged on behalf of the head contractor, that—
  - (i) is to correct defects or omissions in subcontracted work; and
  - (ii) would be made in accordance with the related subcontract if it were made to the head contractor.

Maximum penalty—300 penalty units or 2 years imprisonment.

- (2) In this section—

*related subcontract*, for a retention amount, means the subcontract under which the retention amount was withheld from payment.

## **176T Insertion of new s 34B**

Chapter 2, part 3, division 6—

*insert—*

### **34B Definitions for division**

In this division—

*appeal*, of an outcome of a dispute resolution process, includes a review of the outcome of the dispute resolution process.

*dispute resolution process* means a process prescribed by regulation.

## **176U Amendment of s 35 (When payment dispute occurs)**

- (1) Section 35(1)(c)—

*omit, insert—*

- (c) the head contractor does not prepare a payment instruction to pay the full amount



---

proposed to be paid under the payment schedule.

(2) Section 35(2)—

*insert—*

(d) the head contractor does not prepare a payment instruction to pay the full amount claimed in the payment claim.

### **176V Amendment of s 36 (Dealing with amounts if payment dispute occurs)**

(1) Section 36, heading, ‘Dealing with’—

*omit, insert—*

#### **Obligation to transfer**

(2) Section 36(1), ‘disputed funds account’—

*omit, insert—*

disputed funds trust account

(3) Section 36(3) to (10)—

*omit, insert—*

(3) However, the head contractor need not comply with subsection (1) for an amount the subject of a payment dispute mentioned in subsection 35(2) to the extent the amount to be transferred is more than the contract price for the subcontract with the subcontractor beneficiary.

(4) The ***contract price***, for a subcontract, means the amount the subcontractor is entitled to be paid under the subcontract or, if the amount can not be accurately calculated, the reasonable estimate of the amount the subcontractor is entitled to be paid under the subcontract.

(5) An amount mentioned in subsection (4) is inclusive of GST.

[s 176W]

---

- (6) Immediately after transferring an amount under subsection (1), the head contractor must inform the subcontractor beneficiary in writing of when the amount was transferred into the disputed funds trust account.

Maximum penalty—50 penalty units.

- (7) In this section—

*transfer* means—

- (a) transfer from the general trust account or retention trust account; or
- (b) to the extent there is insufficient funds available in the accounts mentioned in paragraph (a)—transfer or deposit from another source.

## **176W Insertion of new ss 36A–36C**

Chapter 2, part 3, division 6—

*insert—*

### **36A Identifying amounts held in the disputed funds trust account**

The head contractor must ensure an amount held in the disputed funds trust account is identifiable as being held for the subcontractor beneficiary who is a party to the payment dispute for which the amount is held.

Maximum penalty—100 penalty units.

### **36B Withdrawing amounts held in disputed funds trust account**

- (1) The head contractor must not withdraw any part of an amount held in the disputed funds trust account unless the withdrawal is to—
- (a) make a payment to—

- (i) the subcontractor beneficiary who is a party to the payment dispute for which the amount is held; or
  - (ii) the head contractor in accordance with the outcome of a dispute resolution process; or
  - (iii) another person in the circumstances prescribed by regulation; or
- (b) comply with the head contractor's obligation under section 36C(2).

Maximum penalty—300 penalty units or 2 years imprisonment.

- (2) However, if the outcome of the dispute resolution process mentioned in subsection (1)(a)(ii) may be appealed, the withdrawal for the payment to the head contractor under that provision must not be made until—
- (a) the conclusion of the period within which the appeal may be commenced; and
  - (b) if the appeal is commenced—the conclusion of the appeal.

### **36C Returning amounts held in disputed funds trust account after particular time**

- (1) This section applies if—
- (a) the head contractor transfers an amount into the disputed funds trust account under section 36; and
  - (b) at the end of the relevant day any part of the amount remains in the disputed funds trust account.
- (2) As soon as practicable after the relevant day, the head contractor must—

[s 176X]

---

- (a) if the amount was transferred from the general trust account or retention trust account—return the remaining amount to the trust account from which it was transferred; or
- (b) otherwise—withdraw the remaining amount for payment to the head contractor.

Maximum penalty—50 penalty units.

- (3) In this section—

*relevant day*, for an amount transferred into the disputed funds trust account, means—

- (a) if the amount is the subject of a dispute resolution process and the outcome of the process can not be appealed—the day the dispute resolution process ends; or
- (b) if the amount is the subject of a dispute resolution process and the outcome of the dispute resolution process may be appealed—
  - (i) the last day by which the appeal may be commenced; or
  - (ii) if an appeal from the outcome of the process is commenced—the day the appeal is decided; or
- (c) otherwise—the day that is 60 days after the notice of the transfer was given to the subcontractor beneficiary under section 36(7).

### **176X Amendment of s 37 (Ending project bank account)**

- (1) Section 37(1), note, from ‘amounts, including’—

*omit, insert—*

amounts the head contractor is liable to pay the

subcontractor beneficiary in connection with a first tier subcontract, including a retention amount and an amount the subject of a payment dispute. See section 9.

(2) Section 37—

*insert—*

(4) In this section—

*maintenance work* does not include work for which a retention amount has been withheld under a subcontract with a subcontractor beneficiary.

**176Y Amendment of s 39 (Amounts in project bank account unavailable for head contractor's debts)**

Section 39(3), definition *creditor*, from 'it is entitled'—

*omit, insert—*

the head contractor is liable to pay an amount to the subcontractor beneficiary in connection with its subcontract with the head contractor.

**176Z Amendment of s 50 (Principal to be given information about subcontracts)**

Section 50(2)—

*omit, insert—*

(2) The head contractor must give the principal the information prescribed by regulation—

- (a) if the head contractor entered into a subcontract for the building contract before the day a project bank account is required to be established under section 13—within 5 business days after the project bank account is required to be established; or

[s 176ZA]

---

*Note—*

Under section 15 a project bank account may be required for a building contract only after an amendment of the contract.

- (b) otherwise—within 5 business days after entering into a subcontract for the building contract.

Maximum penalty—200 penalty units.

**176ZA Amendment of s 52 (Principal to inform commissioner of discrepancies)**

Section 52(1), after ‘a copy of’—

*insert—*

information contained in

**176ZB Insertion of new ch 2, pt 5, div 1, hdg**

Chapter 2, part 5, before section 53—

*insert—*

**Division 1            Interpretation**

**176ZC Insertion of new ch 2, pt 5, div 2, hdg**

Chapter 2, part 5, before section 54—

*insert—*

**Division 2            Principal may step in as trustee**

**176ZD Amendment of s 54 (Right of principal to step in as trustee)**

Section 54(2), ‘written notice’—

*omit, insert—*

notice, in the approved form,

**176ZE Insertion of new ch 2, pt 5, div 3, hdg**

Chapter 2, part 5, after section 54—

*insert—*

**Division 3      Principal as trustee**

**176ZF Insertion of new s 54A**

Chapter 2, part 5, before section 55—

*insert—*

**54A Application of division**

This division applies if a principal is appointed as trustee for a project bank account under section 54.

**176ZG Amendment of s 55 (Information to be given to principal as trustee)**

(1) Section 55(1)—

*omit.*

(2) Section 55(2) and (3), after ‘as soon as practicable’—

*insert—*

after the principal is appointed trustee

(3) Section 55(2)—

*insert—*

(d) a copy of the records of transactions that the head contractor was required to keep under section 45(1).

(4) Section 55(2) to (5)—

*renumber* as section 55(1) to (4).

[s 176ZH]

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### **176ZH Insertion of new s 55A**

After section 55—

*insert—*

#### **55A Right of principal to apply to Supreme Court for directions**

- (1) As trustee for the project bank account, the principal may apply to the Supreme Court for directions about—
  - (a) an amount held in trust under the project bank account; or
  - (b) the administration of the project bank account; or
  - (c) the exercise of a power by the principal.
- (2) An application made under subsection (1) must be served on all subcontractor beneficiaries for the project bank account unless otherwise directed by the Supreme Court.

### **176ZI Amendment of s 56 (Principal as trustee)**

- (1) Section 56(1)—

*omit.*

- (2) Section 56(2), ‘are required to’—

*omit, insert—*

may

- (3) Section 56(2) and (3)—

*renumber* as section 56(1) and (2).

### **176ZJ Amendment of s 57 (Protection from civil liability)**

Section 57, ‘A principal appointed as trustee under section 54’—

*omit, insert—*



As trustee for the project bank account, the principal

### **176ZK Replacement of s 76 (Responding to payment claim)**

Section 76—

*omit, insert—*

#### **76 Responding to payment claim**

- (1) If given a payment claim, a respondent must respond to the payment claim by giving the claimant a payment schedule within whichever of the following periods ends first—
  - (a) the period, if any, within which the respondent must give the payment schedule under the relevant construction contract;
  - (b) 15 business days after the payment claim is given to the respondent.

Maximum penalty—100 penalty units.

*Note—*

A failure to give a payment schedule as required under this section is also grounds for taking disciplinary action under the *Queensland Building and Construction Commission Act 1991*.

- (2) However, the respondent is not required to give the claimant the payment schedule if the amount claimed in the payment claim is paid in full on or before the due date for the progress payment to which the payment claim relates.

### **176ZL Amendment of s 88 (Adjudicator's decision)**

Section 88(6), 'decision to the registrar'—

*omit, insert—*

decision, and notice of the fees and expenses to be paid to the adjudicator for the decision, to the

[s 176ZM]

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registrar

**176ZM Amendment of s 165 (Conditions of registration)**

- (1) Section 165(1)(c)—  
*renumber* as section 165(1)(d).
- (2) Section 165(1)—  
*insert*—
  - (c) the adjudicator must complete the mandatory training as prescribed by regulation;
- (3) Section 165(3), ‘subsection (1)(c)’—  
*omit, insert*—  
subsection (1)(d)
- (4) Section 165—  
*insert*—
  - (4) The mandatory training that may be prescribed under subsection (1)(c) may include training about—
    - (a) the difference between processes under this Act and the equivalent processes under the repealed *Building and Construction Industry Payments Act 2004*; or
    - (b) amendments of this Act.

**176ZN Amendment of s 185 (Adjudicator must give information to registrar)**

Section 185(1), ‘in writing’—

*omit, insert*—

in the approved form

---

## **176ZO Replacement of s 190 (Who may prosecute)**

Section 190—

*omit, insert—*

### **190 Proceedings for offences**

- (1) A proceeding for an offence against this Act may be started only within 1 year after the offence comes to the complainant's knowledge, but no later than 2 years after the commission of the offence.
- (2) A statement in a complaint for an offence against this Act that the matter of the complaint came to the complainant's knowledge on a stated day is evidence the matter came to the complainant's knowledge on that day.
- (3) A proceeding for an offence against this Act may be started only by a person authorised in writing by the commissioner, either generally or in a particular case, to start the proceeding.
- (4) The written authorisation is evidence that the person is authorised to start the proceeding.

## **176ZP Insertion of new ch 8, pt 1A**

Chapter 8, before part 1—

*insert—*

### **Part 1A                      Provisions for transitional arrangements before repeal**

#### **201A References in ch 2 relating to progress payments**

- (1) This section applies until the repeal of the

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*Building and Construction Industry Payments Act 2004.*

- (2) A reference in chapter 2 to a payment claim is taken to be a reference to a payment claim made under the *Building and Construction Industry Payments Act 2004*.
- (3) A reference in chapter 2 to a payment schedule is taken to be a reference to a payment schedule made under the *Building and Construction Industry Payments Act 2004*.
- (4) A reference in chapter 2 to a progress payment is taken to be a reference to a progress payment under the *Building and Construction Industry Payments Act 2004*.
- (5) A reference in chapter 2 to an adjudication under chapter 3, part 4 is taken to be a reference to an adjudication under the *Building and Construction Industry Payments Act 2004*, part 3, division 2.

**201B No subcontractors' charges over money held in trust**

- (1) This section applies until the repeal of the *Subcontractors' Charges Act 1974*.
- (2) No entitlement to a subcontractor's charge exists to the extent it relates to money held in trust under a project bank account.
- (3) In this section—  
*subcontractor's charge* means a charge within the meaning of section 3 of the *Subcontractors' Charges Act 1974*.

**201C Repeal of transitional regulation**

The Building Industry Fairness (Security of Payment) (Transitional) Regulation 2018, SL No.

17 is repealed.

### **176ZQ Insertion of new s 205A**

Chapter 8, part 2—

*insert—*

#### **205A References in ch 2 relating to progress payments**

- (1) This section applies from the commencement.
- (2) A reference in chapter 2 to a payment claim includes a reference to a payment claim made under the repealed Act, including as preserved under section 205.
- (3) A reference in chapter 2 to a payment schedule includes a reference to a payment schedule made under the repealed Act, including as preserved under section 205.
- (4) A reference in chapter 2 to a progress payment includes a reference to a progress payment the right to which arose under the repealed Act, including as preserved under section 205.
- (5) A reference in chapter 2 to an adjudication under chapter 3, part 4 includes a reference to an adjudication under the repealed Act, part 3, division 2, including as preserved under section 205.

### **176ZR Amendment of s 209 (Unfinished matters for existing subcontractors' charges to be dealt with under the repealed Act)**

Section 209—

*insert—*

- (2A) However, a reference to a subcontractor's charge in section 117 includes a reference to a subcontractor's charge mentioned in subsection

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(2).

**176ZS Amendment of s 211 (Transitional regulation-making power)**

- (1) Section 211(4), from ‘This section’ to ‘expire’—  
*omit, insert—*

A transitional regulation expires

- (2) Section 211—  
*insert—*

(4A) This section expires 1 year after the day of the commencement of subsection (1)(a)(ii).

- (3) Section 211(5)—  
*insert—*

***commencement*** means—

- (a) for a transitional regulation made under subsection (1)(a)(i)—the commencement of that subsection; or
- (b) for a transitional regulation made under subsection (1)(a)(ii)—the commencement of that subsection.

**176ZT Amendment of s 307 (Amendment of sch 2 (Dictionary))**

Section 307(1), ‘*demerit matter*,’—  
*omit.*

**176ZU Amendment of sch 2 (Dictionary)**

- (1) Schedule 2, definitions *disputed funds account* and *retention account*—  
*omit.*

- (2) Schedule 2—

*insert—*

*appeal*, for chapter 2, part 3, division 6, see section 34B.

*disputed funds trust account*, for chapter 2, see section 23(1)(c).

*dispute resolution process*, for chapter 2, part 3, division 6, see section 34B.

*retention trust account*, for chapter 2, see section 23(1)(b).

## **Division 2                      Amendment of Planning Act 2016**

### **177      Act amended**

This division amends the *Planning Act 2016*.

### **178      Amendment of s 229 (Appeals to tribunal or P&E Court)**

Section 229(3)(f)—

*omit, insert—*

- (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
  - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
  - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or

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- (iii) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

### **179 Amendment of s 251 (Matters tribunal may consider)**

(1) Section 251(1)(b), from ‘under’—

*omit, insert—*

under an applicable Act if—

- (i) the application or request relates to a decision made under that Act, other than a decision made by the Queensland Building and Construction Commission; and
- (ii) an information notice about the decision was given or was required to be given under that Act.

(2) Section 251—

*insert—*

(4) In this section—

***applicable Act*** means—

- (a) the Building Act; or
- (b) the *Plumbing and Drainage Act 2018*.

### **180 Amendment of sch 1 (Appeals)**

(1) Schedule 1, section 1(2)(h)(ii), ‘Plumbing and Drainage Act’—

*omit, insert—*

*Plumbing and Drainage Act 2018*



- (2) Schedule 1, section 1, table 3, item 3, ‘and the Plumbing and Drainage Act’—

*omit, insert—*

and the *Plumbing and Drainage Act 2018*

- (3) Schedule 1, section 1, table 3, item 3, ‘Plumbing and Drainage Act, part 4 or 5’—

*omit, insert—*

*Plumbing and Drainage Act 2018*, other than a decision made by the Queensland Building and Construction Commission

- (4) Schedule 1, section 1, table 3, item 3, column 2, ‘The person who’—

*omit, insert—*

The entity that

- (5) Schedule 1, section 1, table 3—

*insert—*

5. Failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*

An appeal may be made against a failure to make a decision under the *Plumbing and Drainage Act 2018*, other than a failure by the Queensland Building and Construction Commission to make a decision, within the period required under that Act, if an information notice about the decision was required to be given under that Act.

Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who was entitled to receive an information notice about the decision	The entity that failed to make the decision	—	—

## 181 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *Plumbing and Drainage Act*—

[s 182]

---

*omit.*

- (2) Schedule 2, definition *drainage work*, ‘Plumbing and Drainage Act’—

*omit, insert—*

*Plumbing and Drainage Act 2018*, schedule 1

- (3) Schedule 2, definition *plumbing work*, ‘Plumbing and Drainage Act, schedule’—

*omit, insert—*

*Plumbing and Drainage Act 2018*, schedule 1

## **Division 3                      Amendment of Queensland Building and Construction Commission Act 1991**

### **182    Act amended**

This division amends the *Queensland Building and Construction Commission Act 1991*.

*Note—*

See also the amendments in schedule 2.

### **183    Insertion of new s 30D**

Part 3, division 1—

*insert—*

#### **30D Mechanical services occupational licence**

- (1) A licence (a *mechanical services occupational licence*) may be issued authorising an individual, while the individual is an officer or employee of a licensed contractor that is a company, to personally carry out and personally supervise mechanical services work carried out under the company’s licence.

- (2) A licence (also a *mechanical services occupational licence*) may be issued authorising an individual, while the individual is an employee of a licensed contractor that is an individual, to personally carry out and personally supervise mechanical services work carried out under the contractor's licence.
- (3) Mechanical services occupational licences are to be divided into classes by regulation—
  - (a) according to whether the licence relates to all classes of mechanical services work or is limited to a specified class or specified classes of mechanical services work; and
  - (b) if the licence is limited to a specified class, or specified classes, of mechanical services work—according to the class or classes of mechanical services work to which it relates.
- (4) A mechanical services occupational licence may be issued for any class of licence.

**184 Amendment of s 32AB (Entitlement to a fire protection occupational licence)**

- (1) Section 32AB, heading, after 'licence'—

*insert—*

**or a mechanical services occupational licence**

- (2) Section 32AB(1), after 'occupational licence'—

*insert—*

or a mechanical services occupational licence

**185 Amendment of s 37 (Period of renewal)**

Section 37—

*insert—*

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---

- (e) a mechanical services occupational licence.

## 186 Insertion of new s 42CA

After section 42C—

*insert—*

### **42CA Unlawful carrying out of mechanical services work**

- (1) An individual must not personally carry out, or personally supervise, mechanical services work unless the individual—
  - (a) holds a mechanical services occupational licence; or
  - (b) holds a licence, registration or authorisation under this Act or another Act that allows the person to personally carry out or personally supervise the work.

Maximum penalty—

- (a) for a first offence—250 penalty units; or
  - (b) for a second offence—300 penalty units; or
  - (c) for a third or later offence, or if the mechanical services work carried out is tier 1 defective work—350 penalty units or 1 year's imprisonment.
- (2) Subsection (1) does not apply to an individual who personally carries out mechanical services work if the mechanical services work is a type prescribed by regulation.
  - (3) Also, subsection (1) does not apply to—
    - (a) an apprentice who personally carries out mechanical services work in a calling that requires the apprentice to carry out the work; or

- (b) a trainee who personally carries out mechanical services work in a calling that requires the trainee to carry out the work; or
  - (c) a student who personally carries out mechanical services work as part of training under the supervision of teaching staff at—
    - (i) a university; or
    - (ii) a college, school or similar institution conducted, approved or accredited by the State or the Commonwealth; or
  - (d) a student who, for work experience, personally carries out mechanical services work as part of a pre-vocational course.
- (4) An individual who contravenes subsection (1) and is liable to a maximum penalty of 350 penalty units or 1 year's imprisonment commits a crime.

## 187 Insertion of new s 42DA

After section 42D—

*insert—*

### **42DA Licensed contractor must not engage or direct unauthorised person for mechanical services work**

- (1) A licensed contractor must not engage or direct an employee to carry out mechanical services work unless the employee is authorised to carry out the work under this Act or another Act.

Maximum penalty—

- (a) for a first offence—250 penalty units; or
- (b) for a second offence—300 penalty units; or
- (c) for a third or later offence, or if the mechanical services work carried out is tier

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1 defective work—350 penalty units or 1 year's imprisonment.

- (2) An individual who contravenes subsection (1) and is liable to a maximum penalty of 350 penalty units or 1 year's imprisonment commits a crime.

*Note—*

This provision is an executive liability provision—see section 111B.

**188 Amendment of s 44E (Conditions of permit)**

Section 44E—

*insert—*

- (ea) the permittee must not personally carry out mechanical services work if the value of the work is more than the amount prescribed by regulation, or if no amount is prescribed, more than \$1,100;

**189 Amendment of s 56AB (Operation of pt 3A)**

Section 56AB—

*insert—*

- (c) a mechanical services occupational licence.

**190 Amendment of s 57 (Operation of pt 3B)**

Section 57—

*insert—*

- (c) a mechanical services occupational licence.

**191 Amendment of s 62 (Operation of pt 3C)**

Section 62—

*insert—*

(c) a mechanical services occupational licence.

**192 Amendment of s 67AV (Operation of pt 3E)**

Section 67AV—

*insert—*

(c) a mechanical services occupational licence.

**192A Omission of s 67AZAA (When demerit points allocated for direction to rectify or remedy)**

Section 67AZAA—

*omit.*

**192B Amendment of s 74AA (Definitions for part)**

Section 74AA—

*insert—*

*install* and *installer*—

A person *installs* a building product in a building, and is an *installer* of the building product, if the person—

- (a) personally installs the product in the building; or
- (b) supervises the installation of the product in the building; or
- (c) carries out the relevant work in relation to which the product is installed in the building; or
- (d) engages a person to do an activity mentioned in paragraph (a), (b) or (c).

*responsible person*, for a building product, means—

[s 192C]

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- (a) a person who designed, manufactured, imported or supplied the product; or
- (b) if the product has been associated with a building—a person who installed the product in the building; or
- (c) an architect or engineer who, in designing a building, specified that the product be associated with the building.

**192C Amendment of s 74AE (Who is a person in the chain of responsibility for a building product)**

Section 74AE—

*insert—*

- (c) the person is an architect or engineer who, in designing a building, specifies that the product be associated with the building.

**192D Amendment of s 74AG (Additional duty relating to accompanying information)**

(1) Section 74AG—

*insert—*

- (4A) An architect or engineer who, in designing a building, specifies that a building product be associated with the building must ensure, so far as reasonably practicable, that when the architect or engineer gives the design to another person the design is accompanied by the information prescribed by regulation for this subsection.

(2) Section 74AG(5), ‘(4) or subsection (6)’—

*omit, insert—*

(4) or (5) or subsection (7)

(3) Section 74AG(4A) to (6)—



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*renumber* as section 74AG(5) to (7).

**192E Amendment of s 74AH (Additional duties relating to recalls)**

(1) Section 74AH(3)—

*renumber* as section 74AH(6).

(2) Section 74AH—

*insert*—

(3) An architect or engineer must not, in designing a building, specify a building product be associated with the building that the architect or engineer knows, or ought reasonably to know, is the subject of a recall order or corresponding recall order.

(4) Subsection (5) applies if—

(a) a building product becomes the subject of a recall order or corresponding recall order after an architect or engineer, in designing a building, specifies the building product be associated with the building; and

(b) the architect or engineer knows, or ought reasonably to know, the building product has become the subject of the recall order or corresponding recall order.

(5) The architect or engineer must, at the architect's or engineer's own expense—

(a) inform each person to whom the architect or engineer has given the design of the recall order or corresponding recall order; and

(b) either—

(i) amend the design to remove the specification; or

[s 192F]

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- (ii) give each person to whom the architect or engineer has given the design a written notice specifying an alternative building product to be associated with the building.

**192F Amendment of s 74AW (Minister may make recall order)**

Section 74AW(4)—

*omit.*

**192G Amendment of s 74AZ (Nature of recall order)**

- (1) Section 74AZ(1)(b)(v) to (vii)—

*renumber* as section 74AZ(1)(b)(vi) to (viii).

- (2) Section 74AZ(1)(b)—

*insert—*

- (v) for a building product that an architect or engineer has, in designing a building, specified be associated with the building—the action the architect or engineer must take to ensure the specification is removed from the design;

*Examples of action for (v)—*

- amending the design to remove the specification
- giving written notice to persons to whom the design has been given specifying an alternative building product to be associated with the building

- (3) Section 74AZ(2), ‘a supplier or installer’—

*omit, insert—*

an architect, engineer, installer or supplier

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**192H Amendment of s 74AZA (Supplier or installer must help responsible person)**

- (1) Section 74AZA, heading, ‘Supplier or installer’—

*omit, insert—*

**Suppliers, installers and particular architects and engineers**

- (2) Section 74AZA(1), ‘, other than a supplier or installer of a building product’—

*omit.*

- (3) Section 74AZA(1)(a)—

*omit, insert—*

- (a) produces a copy of the recall order to any of the following persons—

- (i) a supplier or installer of a building product the subject of the order;
- (ii) an architect or engineer who, in designing a building, specifies that a building product the subject of the order be associated with the building; and

- (4) Section 74AZA(1)(b) and (2), ‘supplier or installer’—

*omit, insert—*

supplier, installer, architect or engineer

- (5) Section 74AZA(2)—

*insert—*

*Examples of reasonable help by architect or engineer—*

- ceasing to specify the recalled building product in designs
- identifying or contacting persons to whom the architect or engineer gave a design specifying the recalled building product be associated with a building

[s 192I]

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**192I Amendment of s 74AZC (Minister may publish warning statement)**

Section 74AZC(2)(b)—

*omit, insert—*

- (b) a responsible person for the building product has already undertaken a recall of the building product; or

**192J Amendment of s 74A (Commission may investigate grounds for taking disciplinary action)**

Section 74A(2), ‘inspector’—

*omit, insert—*

investigator

**192K Amendment of s 74C (Proper grounds for taking disciplinary action against person not a licensee)**

Section 74C(1)(g), ‘inspector’—

*omit, insert—*

investigator

**193 Amendment of s 75 (Tribunal work defined)**

Section 75(1)—

*insert—*

- (fb) mechanical services work;

**193A Amendment of s 86 (Reviewable decisions)**

Section 86(4), ‘inspector’—

*omit, insert—*

investigator

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**193B Amendment of s 87A (No stay by QCAT of particular decisions)**

Section 87A(1A), ‘inspector’—

*omit, insert—*

investigator

**193C Amendment of s 92 (Tribunal may conduct public examination)**

Section 92(c)(ii), ‘inspector’—

*omit, insert—*

investigator

**193D Amendment of s 95 (Expedited hearing of domestic building disputes or reviews)**

Section 95(5), ‘inspector’—

*omit, insert—*

investigator

**193E Amendment of s 99 (Licensee register)**

Section 99(3)(d), ‘Act and the provision of this Act’—

*omit, insert—*

Act, or the *Building Industry Fairness (Security of Payment) Act 2017*, and the provision of the Act

**193F Amendment of sch 1 (Transitional and validating provisions)**

(1) Schedule 1, section 77, ‘section 104.’—

*omit, insert—*

section 104B.

(2) Schedule 1, section 77(2) and (3), ‘inspector’—

[s 193G]

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*omit, insert—*

investigator

### **193G Amendment of sch 1 (Transitional and validating provisions)**

Schedule 1, part 15—

*insert—*

#### **77A Validation of particular continued appointments**

- (1) An existing appointment of a person continued as mentioned in section 77 is taken to have been continued as mentioned in that section from the commencement of the section as originally enacted.

*Note—*

Section 77 as originally enacted commenced on 10 November 2017.

- (2) Anything done between 10 November 2017 and the commencement of this section by a person as the holder of the appointment is taken to have been validly done by the person as if the appointment had been continued as mentioned in section 77 as in force after the commencement.
- (3) Nothing in this section continues the appointment of a person beyond the end of that appointment under section 104D.

### **194 Insertion of new sch 1, pt 16**

Schedule 1—

*insert—*

#### **Part 16**

#### **Transitional provision for Plumbing and Drainage Act 2018**

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**78 Continuing classes of licences that automatically transition to new licence class**

- (1) Subsection (2) applies to a licensee who immediately before the commencement held a contractor's licence for refrigeration, airconditioning and mechanical services including unlimited design licence.
- (2) The licensee is taken to be a licensee for a mechanical services—air-conditioning and refrigeration (unlimited design), subject to any conditions applying to the licence.
- (3) Subsection (4) applies to a licensee who immediately before the commencement held a contractor's licence for refrigeration, airconditioning and mechanical services including limited design licence.
- (4) The licensee is taken to be a licensee for a mechanical services—air-conditioning and refrigeration (limited design), subject to any conditions applying to the licence.

**195 Amendment of sch 1A (Exemptions from requirement to hold contractor's licence)**

- (1) Schedule 1A, section 1, after 'fire protection work'—  
*insert—*  
or mechanical services work
- (2) Schedule 1A, section 2, after 'fire protection work'—  
*insert—*  
or mechanical services work
- (3) Schedule 1A, section 3, after 'fire protection work'—  
*insert—*  
or mechanical services work
- (4) Schedule 1A, section 7—

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*insert—*

- (d) a mechanical services occupational licence.

## 196 Amendment of sch 2 (Dictionary)

- (1) Schedule 2—

*insert—*

***automated bleeding device*** means an automatic device used for the purposes of draining or bleeding or removing fluid or gas.

***cooling tower*** means a device for lowering—

- (a) the temperature of recirculated water by bringing the water into contact with fan-forced, or fan-induced, atmospheric air; or
- (b) the temperature of water, a refrigerant or other fluid in a pipe or other container by bringing recirculated water and fan-forced, or fan-induced, atmospheric air into contact with the pipe or container.

***mechanical services work*** means—

- (a) the construction, installation, replacement, repair, alteration, maintenance, testing or commissioning of a mechanical heating or cooling system in a building, that is associated with the heating or cooling of that building and includes the construction, installation, replacement, repair, alteration, maintenance, testing or commissioning of—
  - (i) a valve, regulator, register, pipe, tank, heating or cooling pipe or surface, solid fuel heater, coil or other item that is used in the system; and
  - (ii) in relation to a cooling tower—a water pipe, valve, pump, automated dosing



device or automated bleeding device or any other mechanical component that affects the cooling tower's cooling water flow rate or wastewater disposal; and

- (b) the construction, installation, replacement, repair, alteration, maintenance, testing and commissioning of a medical gas system; and
- (c) any design work that is—
  - (i) incidental to, or associated with work mentioned in paragraph (a); and
  - (ii) prescribed by regulation;

but does not include—

- (d) gas work regulated under the *Petroleum and Gas (Production and Safety) Act 2004*; or
- (e) any treatment of cooling water; or
- (f) the connection or disconnection of a system mentioned in paragraph (a) or (b) from a water supply other than disconnection of the system from a water supply at an isolating valve adjacent to a mechanical component of that system; or
- (g) design work that is a professional engineering service under the *Professional Engineers Act 2002*; or
- (h) manufacturing of pipe or ducting or components manufactured off-site; or
- (i) installation of a single head split system; or
- (j) installing ductwork and enclosures for air-conditioning, air handling and mechanical ventilation systems; or
- (k) any other work prescribed by regulation.

***medical gas*** means any gas or mixture of gases or

[s 196]

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other substance or process used for hospital or medical use that is supplied to, removed from or conducted at, a hospital or other place where medical procedures are carried out, by way of a pipeline reticulation system and includes oxygen, helium, nitrous oxide, nitrogen, medical air, surgical tool gas, carbon dioxide and common mixtures of those gases as well as anaesthesia waste.

***medical gas system*** means any fixed component used—

- (a) in a reticulation system for the supply or removal of medical gas from the gas source to a wall outlet; and
- (b) for patient care, therapeutic, diagnostic purposes or surgical tools.

***mechanical services occupational licence*** see section 30D(1) and (2).

- (2) Schedule 2, definition *building work*—

*insert*—

(ga) mechanical services work; or

- (3) Schedule 2, definition *demerit points*—

*omit, insert*—

***demerit points*** see section 67AQ.

- (4) Schedule 2, definition *domestic building work*, ‘, for schedule 1B,’—

*omit.*

- (5) Schedule 2, definition *residential construction work*, ‘, for part 5,’—

*omit.*

- (6) Schedule 2—

*insert*—

*install* and *installer*, for part 6AA, see section 74AA.

*responsible person*, for part 6AA, see section 74AA.

## **Division 4                    Minor and consequential amendments**

### **197    Acts amended**

Schedule 2 amends the Acts it mentions.

## Schedule 1 Dictionary

### section 5

***action notice*** see section 150.

***apparatus***—

(a) includes—

(i) a cistern, pump, siphon or valve; and

(ii) for sanitary plumbing or sanitary drainage or an on-site sewage facility—an arrestor; and

(iii) for water plumbing—a backflow prevention device, domestic water filter, tap, water heater, water meter or water softener; but

(b) does not include an appliance, fitting, fixture or straight pipe.

***appliance*** see the glossary.

***approved audit program*** means an audit program approved by the commissioner under section 47.

***approved form*** means a form approved by the chief executive or commissioner under section 152.

***arrestor*** see the glossary.

***assistant commissioner*** means the person who holds an appointment as the assistant commissioner under section 100.

***backflow prevention device*** means a device to prevent the flow of water from a potentially polluted source into a water supply system for drinking water.

***building*** means a building under the *Building Act 1975*.

***chairperson*** means the person who holds an appointment as the chairperson of the council under section 115(1).

***cistern*** see the glossary.

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**code requirements**, for plumbing or drainage work, see section 9(1).

**commissioner** means the commissioner under the *Queensland Building and Construction Commission Act 1991*.

**common effluent drainage** means a sewerage system that carries effluent from 2 or more premises after the effluent is treated in 1 or more on-site sewage facilities for the premises.

**connection area** see the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 99BO(1)(f)(i).

**council** means the Service Trades Council mentioned in section 105.

**criminal history**, of a person, means the person's criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

**deputy chairperson** means the person who holds an appointment as deputy chairperson of the council under section 116(1).

**deputy member** means a person who holds an appointment as a deputy member under section 110(1).

**disciplinary action** means action mentioned in section 52(1)(a) to (e) or 55(4)(a) to (f).

**drainage** means—

- (a) an apparatus, fitting or pipe, either above or below ground level, that carries—
  - (i) sewage to a sewerage system; or
  - (ii) sewage to, within or from an on-site sewage facility; or

*Examples—*

- a pipe carrying effluent to an on-site sewage treatment plant on premises
- 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

- (iii) greywater from a greywater treatment plant or greywater diversion device; or
- (b) an on-site sewage facility.

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

- (a) drainage; or
- (b) a greywater use facility; or
- (c) an on-site sewage facility.

*Examples—*

- partly assembling sanitary drainage in a workshop
- installing sanitary drainage in premises

**drinking water** see the *Water Supply (Safety and Reliability) Act 2008*, schedule 3.

**dry-vault toilet** means a system for disposing of human waste 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 help the biological degradation process.

**effluent** see the glossary.

**endorsement** means an endorsement on a licence under section 25(1).

**enforcement notice** see section 143(4).

**environmentally relevant on-site sewage facility** means a facility that—

- (a) is installed on premises for treating sewage produced on the premises, and disposing of the resulting effluent—
  - (i) in a land application area on the premises; or

- (ii) off the premises by common effluent drainage or by collection from a tank on the premises; and
- (b) consists of, or includes, a sewage treatment plant the operation of which is an environmentally relevant activity under the *Environmental Protection Act 1994*.

***final inspection certificate*** means a final inspection certificate as prescribed by regulation.

***fitting*** see the glossary.

***fixture*** see the glossary.

***glossary*** means AS/NZS 3500 (Plumbing and drainage), part 0 (Glossary of terms), as in force from time to time.

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

***greywater diversion device*** means a device that—

- (a) diverts greywater to sanitary drainage or a land application area; and
- (b) if the device forms part of a greywater use facility—
  - (i) automatically diverts greywater from the facility to sanitary drainage if the facility does not work properly or at all; and
  - (ii) allows greywater from the facility to be manually diverted from the facility to sanitary drainage.

***greywater treatment plant*** means plant installed on premises for treating, on the premises, greywater produced on the premises.

***greywater use facility*** means a facility consisting of—

- (a) a greywater diversion device and a land application area; or
- (b) a greywater treatment plant, with or without a land application area.

***grossly defective work*** means plumbing or drainage work on premises that—

- (a) falls below the standard reasonably expected of a person who holds a licence to do the same type of work; and
- (b) is likely to endanger a person's life or physical safety, or pose a significant health risk to anyone.

*Examples for paragraph (b)—*

- 1 A hot water service is installed in a house without a temperature control device resulting in a risk that an occupier of the house will be scalded by hot water.
- 2 An on-site sewage treatment plant is not properly connected to a building resulting in a risk that untreated sewage will flow onto adjoining premises.

***guideline*** means a guideline made by the chief executive under section 154.

***holder***, of a licence, means the person to whom the licence has been granted under this Act.

***information*** includes a document.

***information notice***, about a decision, means a notice stating—

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) that the person to whom the notice is given may, within 28 days after the notice is given to the person—
  - (i) apply to QBCC for an internal review of the decision under the *Queensland Building and Construction Commission Act 1991*, part 7, division 3; or
  - (ii) apply to QCAT for an external review of the decision under the *Queensland Building and Construction Commission Act 1991*, part 7, division 3; and
- (d) how to apply for a review of the decision.

***infringement notice*** see the *State Penalties Enforcement Act 1999*, schedule 2.



**inspection certificate** means an inspection certificate as prescribed by regulation.

**inspector** means a person who holds an appointment as an inspector under section 139(1).

**internal review decision** means a decision made by the council as an internal reviewer under the *Queensland Building and Construction Commission Act 1991*, section 86C.

**interstate or New Zealand licence** means a licence granted by an interstate or New Zealand licensing authority.

**interstate or New Zealand licensing authority** means an entity established under the law of another State or New Zealand having functions similar to the commissioner's functions relating to plumbing and drainage.

**investigator** means a person appointed as an investigator under the *Queensland Building and Construction Commission Act 1991*, section 104B(1) to investigate, monitor and enforce compliance with this Act.

**kitchen greywater** means greywater from—

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

**land application area** means an area where greywater, or effluent from an on-site sewage treatment plant, is disposed of by subsurface or surface irrigation.

**licence** means a licence granted under this Act.

**licensee** means a person who holds a licence under this Act.

**local government**, in relation to work, a facility or premises, means the local government for the local government area in which—

- (a) the work is carried out, or is to be carried out; or
- (b) the facility or premises are located.

*Note—*

See also section 11.

***member***—

- (a) means a person who holds an appointment as a member of the council under section 109(1); or
- (b) for part 5, division 3, subdivision 3, see section 123.

***non-review period***, for conditions of a licence, means a period—

- (a) of not more than 2 years after the decision to impose the conditions, or confirm or change the conditions, takes effect; and
- (b) within which the licensee may not apply for a review of the conditions under part 2, division 7.

***notice*** means a written notice.

***notifiable work*** see section 6(3).

***occupier***, of a place, includes the following—

- (a) if there is more than 1 person who apparently occupies the place—any 1 of the persons;
- (b) any person at the place who is apparently acting with the authority of a person who occupies the place;
- (c) if no-one apparently occupies the place—the person who is the owner of the place.

***on-site sewage facility*** means—

- (a) a facility, other than an environmentally relevant on-site sewage facility, installed on premises, that includes—
  - (i) an on-site treatment plant on the premises for treating sewage produced on the premises; and
  - (ii) either—
    - (A) a land application area on the premises for disposal of the effluent produced by the on-site treatment plant; or
    - (B) a tank for storing on the premises the effluent produced by the on-site treatment plant for later disposal off the premises by collection from the tank; or

- 
- (b) a facility, other than an environmentally relevant on-site sewage facility, installed on premises, that—
    - (i) includes an on-site treatment plant on the premises for treating sewage produced on the premises; and
    - (ii) disposes of the effluent produced by the on-site treatment plant off the premises—
      - (A) if the facility is installed only for testing purposes—into a sewage system; or
      - (B) by common effluent drainage; or
      - (C) in another way, stated in the permit for the installation of the facility; or
  - (c) a dry-vault toilet or a chemical, composting or incinerating toilet.

***on-site sewage treatment plant*** means a sewage treatment plant that is, or is designed to be, part of an on-site sewage facility installed on premises.

***owner*** means—

- (a) for a building or structure—the owner of the building or structure within the meaning of the *Building Act 1975*; or
- (b) for land (whether or not a building or other structure is on the land)—the owner of the land within the meaning of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*, section 14.

***panel*** means a panel established under section 130.

***panel member*** means a person who holds an appointment to a panel under section 131(1).

***permit*** means a permit—

- (a) that authorises the carrying out for premises of either or both the permit work or notifiable work, stated in the permit for the premises; and
- (b) that is issued by—

- (i) if the work is to be carried out by or for a public sector entity—
  - (A) the public sector entity; or
  - (B) the local government for the local government area in which the premises is located; or
- (ii) otherwise—the local government for the local government area in which the premises is located.

**permit work** see section 6(2).

**pipe** see the glossary.

**plan**, for plumbing or drainage work, means a document that contains details of the plumbing or drainage work carried out, or to be carried out, on premises, and includes a pictorial representation of the work.

**plumbing** means—

- (a) an apparatus, fitting or pipe for—
  - (i) supplying water to premises from a water service provider's infrastructure or a water storage tank; or
  - (ii) carrying water within premises; or
- (b) 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 of Australia** see section 8.

**plumbing or drainage work** means plumbing work or drainage work.

**plumbing work** includes—

- (a) installing, changing, extending, disconnecting, taking away, maintaining and testing plumbing; and
- (b) installing a water meter, as part of a water service provider's infrastructure, to measure the volume of water supplied from the infrastructure to premises.

*Examples—*

- assembling pipes and fittings in a workshop
- installing pipes and fittings in a building

***practical experience***, for a licence or an endorsement, means the practical experience required for the licence or endorsement, decided by the commissioner under section 14(a) or 26(a).

***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 WaterMark product*** means a WaterMark product prescribed by regulation as a prohibited WaterMark product.

***provisional licence*** means a provisional licence that may be granted under section 19(1)(b).

***provisional licensee*** means a person who holds a provisional licence.

***public sector entity—***

- (a) means—
  - (i) a department or part of a department; or
  - (ii) an agency, authority, commission, corporation, instrumentality, office, or other entity, established under an Act for a public or State purpose; or
  - (iii) a government owned corporation; or
  - (iv) a rail government entity under the *Transport Infrastructure Act 1994*; but
- (b) does not include a distributor-retailer under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 8.

***pump*** see the glossary.

***QBCC*** means the Queensland Building and Construction Commission under the *Queensland Building and Construction Commission Act 1991*.

***QBCC officer*** means—

- (a) an officer or employee of QBCC; or
- (b) an employee of another government entity performing work for QBCC under a work performance arrangement within the meaning of the *Queensland Building and Construction Commission Act 1991*.

***qualifications***, for a licence or an endorsement, means the qualifications required for the licence or endorsement, decided by the commissioner under section 14(a) or 26(a).

***Queensland Development Code*** see the *Building Act 1975*, section 13.

***Queensland Plumbing and Wastewater Code*** see section 7(1).

***reasonably believes*** means believes on grounds that are reasonable in the circumstances.

***registered training organisation*** see the *National Vocational Education and Training Regulator Act 2011* (Cwlth), section 3.

***relevant person***, for notifiable work, for part 3, division 6, see section 81.

***repealed Act*** means the repealed *Plumbing and Drainage Act 2002*.

***representation*** means a claim, promise, publication, statement or other representation made in any way, including, for example, in advertising material.

***responsible person***, for plumbing or drainage work, means a person who—

- (a) carries out the plumbing or drainage work; or
- (b) supervises the carrying out of, or directs another person to carry out, the work.

***retail water service***—

- (a) means a water service that is the reticulation of water in a service area, or a connection area, for a water service; but

- 
- (b) does not include—
- (i) an irrigation service or a bulk water service in any area; or
  - (ii) the supply of recycled water in any area.

**sanitary drain** means a drain, other than a pipe that is part of common effluent drainage, that is directly connected to, and used to carry discharges from, a soil or waste pipe for 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, on-site sewage facility or greywater use facility, including—

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

**sanitary plumbing** means an apparatus, fitting, fixture or pipe, above ground level, for carrying sewage to a sanitary drain.

**septic tank** see the glossary.

**service area** see the *Water Supply (Safety and Reliability) Act 2008*, schedule 3.

**sewage** see the *Water Supply (Safety and Reliability) Act 2008*, schedule 3.

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

**sewerage service provider** see the *Water Supply (Safety and Reliability) Act 2008*, schedule 3.

**sewerage system** means infrastructure used to receive, transport and treat sewage or effluent, including, for example,

access chambers, engines, machinery, outfalls, pumps, sewers, structures and vents.

**sewered area** means—

- (a) a service area for a sewerage service under the *Water Supply (Safety and Reliability) Act 2008*; or
- (b) a connection area for a wastewater service under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

**show cause notice**—

- (a) for part 2, division 10—see section 50(1); or
- (b) for part 6, division 4—see section 144(2).

**show cause period** see section 50(2)(c).

**siphon** see the glossary.

**spent conviction** means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

**tap** see the glossary.

**temporary member** see section 111(1).

**trainee** means an apprentice, student or other person who—

- (a) is enrolled in a course that—
  - (i) is conducted by a registered training organisation and leads to the issue of a VET qualification, or a VET statement of attainment, under the *National Vocational Education and Training Regulator Act 2011* (Cwlth); and
  - (ii) relates to plumbing or drainage work; and
- (b) has agreed with an employer and registered training organisation to take part in a vocational placement.

**treatment plant** means—



- (a) a greywater treatment plant; or
- (b) an on-site sewage treatment plant.

***treatment plant approval*** means—

- (a) a treatment plant testing approval; or
- (b) a treatment plant use approval.

***treatment plant testing approval*** means an approval that allows a treatment plant to be tested on premises in compliance with the conditions of the approval.

***treatment plant use approval*** means an approval that allows a treatment plant to be used on premises in compliance with the conditions of the approval.

***tribunal*** see the *Planning Act 2016*, schedule 2.

***unlicensed person*** means a person who is not the holder of a licence.

***unregulated work*** see section 6(5).

***valve*** see the glossary.

***water heater*** see the glossary.

***WaterMark product*** means a product mentioned in the WaterMark Schedule of Products or WaterMark Schedule of Excluded Products.

***WaterMark Schedule of Excluded Products*** see the Plumbing Code of Australia.

***WaterMark Schedule of Products*** see the Plumbing Code of Australia.

***water meter*** means a device, and related equipment, for measuring the volume of water supplied to premises.

*Example of equipment related to the device—*

a pulse meter associated with the device

***water plumbing*** means an apparatus, fitting or pipe for carrying water within premises.

***water service*** means—

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- (a) water harvesting or collection, including, for example, water storages, groundwater extraction or replenishment and river water extraction; or
- (b) the transmission of water; or
- (c) the reticulation of water; or
- (d) drainage, other than stormwater drainage; or
- (e) water treatment or recycling.

***water service provider***, for premises, means the service provider under the *Water Supply (Safety and Reliability) Act 2008*, chapter 2, part 3 who provides a retail water service for the premises.

***water supply system*** means infrastructure used to supply water to premises, whether or not the infrastructure is also used to store or treat water, that consists of—

- (a) a water main; and
- (b) a pipe that connects the water main to the premises; and
- (c) any of the following—
  - (i) valves;
  - (ii) engines;
  - (iii) pumps;
  - (iv) machinery;
  - (v) other works.

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## Schedule 2      Acts amended

section 197

### Body Corporate and Community Management Act 1997

**1      Section 20(1)(a)(ii), from ‘in relation to’ to ‘31 December 2007’—**

*omit, insert—*

under a permit issued under the *Plumbing and Drainage Act 2018* or in relation to a compliance request made after 31 December 2007 under the repealed *Plumbing and Drainage Act 2002*

**2      Section 196(13)(b)—**

*omit, insert—*

(b) under a permit issued under the *Plumbing and Drainage Act 2018* or in relation to a compliance request made after 31 December 2007 under the repealed *Plumbing and Drainage Act 2002*.

### Building Act 1975

**1      Section 77, ‘Standard Plumbing and Drainage Regulation’—**

*omit, insert—*

*Plumbing and Drainage Act 2018*

**2 Section 83(1)(e), from ‘installing’ to ‘change’—**

*omit, insert—*

installing or altering on premises an on-site sewage facility under the *Plumbing and Drainage Act 2018*—until a permit under that Act has been given for the installation or alteration

**3 Section 83(2)(c), ‘a request under the *Plumbing and Drainage Act 2002* for a compliance permit’—**

*omit, insert—*

an application under the *Plumbing and Drainage Act 2018* for a permit

**4 Section 101(1)(d)(i), from ‘compliance certificate’ to ‘completed’—**

*omit, insert—*

final inspection certificate under the *Plumbing and Drainage Act 2018* stating the plumbing or drainage work for the building has been finished

**5 Section 101(1)(d)(ii), ‘Plumbing Industry Council under the *Plumbing and Drainage Act 2002*, section 87’—**

*omit, insert—*

commissioner under the *Plumbing and Drainage Act 2018*, section 83(1)

**6 Schedule 2, definition *site works*, paragraph (b), ‘*Plumbing and Drainage Act 2002*’—**

*omit, insert—*

*Plumbing and Drainage Act 2018*

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## Building and Construction Industry (Portable Long Service Leave) Act 1991

**1 Section 67(2)(b)—**

*omit, insert—*

(b) if a permit under the *Plumbing and Drainage Act 2018* is required for the work—before the permit is issued; or

**2 Section 74(d), from ‘*Plumbing and Drainage Act 2002*’ to ‘approval’—**

*omit, insert—*

*Plumbing and Drainage Act 2018* an application is made to the local government for a permit

**3 Section 75(1)(a)(ii), ‘an approval under the *Plumbing and Drainage Act 2002*’—**

*omit, insert—*

a permit under the *Plumbing and Drainage Act 2018*

**4 Section 75(1)(b), ‘an approval’—**

*omit, insert—*

a permit

**5 Section 77(1)(b), ‘an approval under the *Plumbing and Drainage Act 2002*’—**

*omit, insert—*

a permit under the *Plumbing and Drainage Act 2018*

**6 Section 77(2), ‘approval’—**

*omit, insert—*

permit

**Building Industry Fairness (Security of Payment) Act 2017**

**1 Sections 115(1)(b) and 135(1), ‘subcontractor’s charges’—**

*omit, insert—*

subcontractors’ charges

**2 Section 117, heading and section 136, heading, ‘subcontractor’s charges’—**

*omit, insert—*

subcontractor’s charge

**3 Section 114, heading, and sections 208 and 209, ‘subcontractors’ charge’—**

*omit, insert—*

subcontractor’s charge

**4 Section 207, definition *subcontractors’ charge*—**

*omit, insert—*

*subcontractor’s charge* means a charge within the meaning of section 3 of the repealed Act.

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## City of Brisbane Act 2010

**1 Section 85(2)(a), ‘on-site sewerage facility’—**

*omit, insert—*

on-site sewerage facility

**2 Schedule 1, definition *Plumbing and Drainage Act*,  
‘*Plumbing and Drainage Act 2002*’—**

*omit, insert—*

*Plumbing and Drainage Act 2018*

## Economic Development Act 2012

**1 Schedule 1, definition *drainage work*, ‘*Plumbing and Drainage Act 2002*, schedule’—**

*omit, insert—*

*Plumbing and Drainage Act 2018*, schedule 1

**2 Schedule 1, definition *plumbing work*, ‘*Plumbing and Drainage Act 2002*, schedule’—**

*omit, insert—*

*Plumbing and Drainage Act 2018*, schedule 1

## Geothermal Energy Act 2010

**1 Section 327, note, ‘*Plumbing and Drainage Act 2002*’—**

*omit, insert—*

*Plumbing and Drainage Act 2018*

## **Housing Act 2003**

- 1 Section 94F, definition *applicable laws*, paragraph (d), ‘*Plumbing and Drainage Act 2002*’—**

*omit, insert—*

*Plumbing and Drainage Act 2018*

## **Local Government Act 2009**

- 1 Section 78(2)(a), ‘on-site sewerage facility’—**

*omit, insert—*

on-site sewerage facility

- 2 Schedule 4, definition *Plumbing and Drainage Act*, ‘*Plumbing and Drainage Act 2002*’—**

*omit, insert—*

*Plumbing and Drainage Act 2018*

## **Queensland Building and Construction Commission Act 1991**

- 1 Section 6(c), note, ‘is established under the *Plumbing and Drainage Act 2002*, section 5’—**

*omit, insert—*



is continued in existence under the *Plumbing and Drainage Act 2018*, section 105

**2 Section 11(d), ‘the trade under the *Plumbing and Drainage Act 2002*’—**

*omit, insert—*

the plumbing and drainage trade under the *Plumbing and Drainage Act 2018*

**3 Section 48(2), definition *relevant Act*, paragraph (a)—**

*omit, insert—*

(a) the *Plumbing and Drainage Act 2018*; or

**4 Section 67WC(1)(c), ‘building or plumbing approval’—**

*omit, insert—*

building development approval under the *Building Act 1975* or a permit under the *Plumbing and Drainage Act 2018*

**5 Section 74AA, definition *relevant regulatory provisions*, paragraph (b), ‘the Standard Plumbing and Drainage Regulation under the *Plumbing and Drainage Act 2002*’—**

*omit, insert—*

the *Plumbing and Drainage Act 2018*

**6 Section 74AA, definition *relevant work*, paragraphs (b) and (c), ‘*Plumbing and Drainage Act 2002*’—**

*omit, insert—*

*Plumbing and Drainage Act 2018*

- 7 Section 74B(3), definition *relevant Act*, paragraph (b), ‘*Plumbing and Drainage Act 2002*’—**  
*omit, insert—*  
*Plumbing and Drainage Act 2018*
- 8 Section 85A, definition *internal reviewer*, paragraph (a), ‘*Plumbing and Drainage Act 2002*, section 68’—**  
*omit, insert—*  
*Plumbing and Drainage Act 2018*, section 51
- 9 Section 86(2)(b)—**  
*omit, insert—*  
(b) the *Plumbing and Drainage Act 2018*, section 19, 29, 32, 34, 38 or 51;
- 10 Section 86F(2), ‘*Plumbing and Drainage Act 2002*’—**  
*omit, insert—*  
*Plumbing and Drainage Act 2018*
- 11 Section 103G, definition *relevant Act*, paragraph (d), ‘*Plumbing and Drainage Act 2002*’—**  
*omit, insert—*  
*Plumbing and Drainage Act 2018*
- 12 Section 104(2)(d), ‘*Plumbing and Drainage Act 2002*’—**  
*omit, insert—*  
*Plumbing and Drainage Act 2018*
- 13 Section 104A(a)(iv), ‘*Plumbing and Drainage Act 2002*’—**  
*omit, insert—*

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*Plumbing and Drainage Act 2018*

**14 Section 106U(7), definition *relevant Act*, paragraph (d), ‘*Plumbing and Drainage Act 2002*’—**

*omit, insert—*

*Plumbing and Drainage Act 2018*

**15 Section 114(1A), ‘*Plumbing and Drainage Act 2002*’—**

*omit, insert—*

*Plumbing and Drainage Act 2018*

**16 Schedule 2—**

*insert—*

*drainage* see the *Plumbing and Drainage Act 2018*, schedule 1.

*plumbing* see the *Plumbing and Drainage Act 2018*, schedule 1.

**17 Schedule 2, definition *Service Trades Council*, ‘established under the *Plumbing and Drainage Act 2002*, section 5’—**

*omit, insert—*

continued in existence under the *Plumbing and Drainage Act 2018*, section 105

## **State Development and Public Works Organisation Act 1971**

**1 Schedule 2, definition *drainage work*, ‘*Plumbing and Drainage Act 2002*, schedule’—**

*omit, insert—*

*Plumbing and Drainage Act 2018*, schedule 1

**2 Schedule 2, definition *plumbing work*, ‘*Plumbing and Drainage Act 2002*, schedule’—**

*omit, insert—*

*Plumbing and Drainage Act 2018*, schedule 1

## **Water Supply (Safety and Reliability) Act 2008**

**1 Section 35(2), note—**

*omit, insert—*

*Note—*

A licence under the *Plumbing and Drainage Act 2018* may be required to install a meter.

**2 Section 140(1)(b), ‘compliance request made under the *Plumbing and Drainage Act 2002*’—**

*omit, insert—*

compliance request made under the repealed *Plumbing and Drainage Act 2002* or under a permit under the *Plumbing and Drainage Act 2018*

**3 Section 140(3), definition *Building Code of Australia*,  
'*Plumbing and Drainage Act 2002*'—**

*omit, insert—*

*Building Act 1975*, section 12

**4 Schedule 3, definition *sanitary drain*, '*Plumbing and  
Drainage Act 2002*'—**

*omit, insert—*

*Plumbing and Drainage Act 2018*

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