



# Plumbing and Drainage Act 2002

Reprinted as in force on 29 November 2004

Reprint No. 1A revised edition

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# Information about this reprint

This Act is reprinted as at 29 November 2004. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have also been made to use aspects of format and printing style consistent with current drafting practice (s 35).

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

**Also see endnotes for information about—**

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

## **Dates shown on reprints**

**Reprints dated at last amendment** All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

**Replacement reprint date** If the date of a hard copy reprint is the same as the date shown on another hard copy reprint it means that one is the replacement of the other.

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

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



Queensland

# Plumbing and Drainage Act 2002

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# Plumbing and Drainage Act 2002

[as amended by all amendments that commenced on or before 29 November 2004]

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

## Part 1 Preliminary

### 1 Short title

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

### 2 Commencement

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

### 3 Definitions

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

### 4 Act binds all persons

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

## **Part 2 Plumbers and Drainers Board**

### **Division 1 Establishment, functions and powers**

#### **5 Establishment of board**

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

#### **6 Functions of board**

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

#### **7 Powers of board**

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

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

## **8 Delegation by board**

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

## **Division 2 Membership**

### **9 Membership of board**

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

- (a) a representative of each of the following entities—
  - (i) the department in which this Act is administered;
  - (ii) the department in which the *Training and Employment Act 2000* is administered;
  - (iii) the department in which the *Health Act 1937* is administered;
  - (iv) the Local Government Association of Queensland (Incorporated);
  - (v) the Master Plumbers' Association of Queensland;

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

## **10 Appointment of deputy members**

- (1) The Governor in Council may also appoint a deputy to act for each member, mentioned in section 9(a), during the member's absence.
- (2) In appointing a deputy of a member, the Governor in Council must appoint a person who represents the entity which the member, for whom the deputy is being appointed, represents.
- (3) In the absence of a member, the deputy for the member has the same duties, powers, protection and rights as the member other than for section 11.<sup>1</sup>

## **11 Chairperson and deputy chairperson of board**

- (1) The Governor in Council must appoint a member to be the board's chairperson, and another member to be the board's deputy chairperson.
- (2) A person may be appointed as the chairperson or deputy chairperson at the same time the person is appointed as a member.
- (3) The chairperson or deputy chairperson holds office for the term decided by the Governor in Council, unless the member's term of office ends sooner than the member's term of office as chairperson or deputy chairperson.
- (4) A vacancy occurs in the office of chairperson or deputy chairperson if the person holding the office resigns the office by signed notice of resignation given to the Minister or ceases to be a member.
- (5) However, a member resigning the office of chairperson or deputy chairperson may continue to be a member.
- (6) The deputy chairperson must act as chairperson—

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<sup>1</sup> See section 31 (Protection of members from civil liability).

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

## **12 Term of appointment**

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

## **13 Disqualification from membership**

- (1) A person can not become, or continue as, a member if the person—
  - (a) is affected by bankruptcy action; or
  - (b) is, or has been, convicted of an indictable offence; or
  - (c) is, or has been, convicted of an offence against this Act, the repealed Act.
- (2) For subsection (1)(a), a person is affected by bankruptcy action if the person—
  - (a) is bankrupt; or
  - (b) has compounded with creditors; or
  - (c) as a debtor, has otherwise taken, or applied to take, advantage of any law about bankruptcy.

## **14 Vacation of office**

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

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

**15 When notice of resignation takes effect**

A notice of resignation under section 11(4) or 14(1)(a) takes effect when the notice is given to the Minister or, if a later time is stated in the notice, at the later time.

**16 Leave of absence for members**

- (1) The Minister may approve leave of absence of more than 3 meetings for a member.
- (2) If a deputy for the member has not been appointed under section 10, the Minister may appoint a person to act in the office of the member while the member is absent on the approved leave.
- (3) Also, if a deputy for the member has been appointed under section 10 but is unable to act in the office of the member during the member's approved leave, the Minister may appoint a person to act in the office of the member while the deputy is unable to act in the office of the member.
- (4) A person appointed under subsection (2) or (3) must represent the entity or interest the member represents.
- (5) If the member is the deputy chairperson, the Minister may appoint another member to act in the deputy chairperson's office while the deputy chairperson is absent on the approved leave.

**17 Remuneration of members**

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

**18 Report about person's criminal history**

- (1) To help decide whether a person is a suitable person to be appointed as a member or a deputy member, the chief executive may ask the commissioner of the police service for a written report about the person's criminal history.
- (2) However, the chief executive may make a request about a person under subsection (1) only if the person has given the chief executive written consent for the request.



- (3) If asked by the chief executive, the commissioner of the police service must give the chief executive a written report about the criminal history of the person.
- (4) The duty imposed on the commissioner of the police service applies only to information in the commissioner's possession or to which the commissioner has access.
- (5) The chief executive must destroy a report given to the chief executive under this section as soon as practicable after it is no longer needed for the purpose for which it was requested.
- (6) In this section—  
*criminal history*, of a person, means the convictions recorded against the person for offences, in Queensland or elsewhere, whether before or after the commencement of this section.

## **Division 3            Board business**

### **19        Conduct of business**

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

### **20        Times and places of meetings**

- (1) Board meetings are to be held at the times and places the chairperson decides.
- (2) However, the chairperson must call a meeting if asked, in writing, to do so by the Minister or 4 members.
- (3) Notice of when and where a meeting of the board must be held, and of the business for the meeting, must be given by the secretary to each member at least 5 business days before the day for the meeting.

### **21        Quorum**

A quorum for the board is 4 members.

**22 Presiding at meetings**

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

**23 Conduct of meetings**

- (1) A question at a board meeting is decided by a majority of the votes of the members present.
- (2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.
- (3) A member present at the meeting who abstains from voting is taken to have voted for the negative.
- (4) The board may hold meetings, or allow members to take part in its meetings, by using any technology allowing reasonably contemporaneous and continuous communication between members taking part in the meeting, including, for example, by using teleconferencing.
- (5) A member who takes part in a board meeting under subsection (4) is taken to be present at the meeting.
- (6) A resolution is validly made by the board, even if it is not passed at a board meeting, if—
  - (a) notice of the resolution is given under procedures approved by the board; and
  - (b) a majority of the board members gives written agreement to the resolution.

**24 Minutes**

- (1) The board must keep—
  - (a) minutes of its meetings; and

- (b) a record of any resolutions made under section 23(6).
- (2) Subsection (3) applies if a resolution is passed at a board meeting.
- (3) If asked by a member who voted against the passing of the resolution, the board must record in the minutes of the meeting that the member voted against the resolution.

## **Division 4            Board committees**

### **25            Committees**

- (1) The board may establish committees of the board for effectively and efficiently performing its functions.
- (2) A committee may include a person who is not a member.
- (3) The board must decide the terms of reference of a committee.
- (4) The functions of a committee are to—
  - (a) advise and make recommendations to the board about matters, within the scope of the board's functions, referred by the board to the committee; and
  - (b) exercise powers delegated to it by the board.<sup>2</sup>
- (5) A committee must keep a record of the decisions it makes when exercising a power delegated to it by the board.
- (6) The board may decide matters about a committee that are not provided for under this Act, including, for example, the way a committee must conduct meetings.

### **26            Remuneration of committee members**

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

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<sup>2</sup> See section 8 (Delegation by board).

## **Division 5                      Disclosure of interests by board members and committee members**

### **27            Disclosure of interests**

- (1) This section applies to a board or committee member (the *interested person*) if—
  - (a) the interested person has a direct or indirect interest in a matter being considered, or about to be considered, by the board or committee; and
  - (b) the interest could conflict with the proper performance of the person's duties about the consideration of the matter.
- (2) As soon as practicable after the relevant facts come to the interested person's knowledge, the person must disclose the nature of the interest to a board or committee meeting.
- (3) Unless the board or committee otherwise directs, the interested person must not—
  - (a) be present when the board or committee considers the matter; and
  - (b) take part in a decision of the board or committee about the matter.
- (4) The interested person must not be present when the board or committee is considering whether to give a direction under subsection (3).
- (5) If there is another member who must, under subsection (2), also disclose an interest in the matter, the other member must not—
  - (a) be present when the board or committee is considering whether to give a direction under subsection (3) about the interested person; or
  - (b) take part in making the decision about giving the direction.
- (6) If—
  - (a) because of this section, a member is not present at a meeting for considering or deciding a matter, or for

considering or deciding whether to give a direction under subsection (3); and

- (b) there would be a quorum if the member were present; the remaining members present are a quorum for considering or deciding the matter, or for considering or deciding whether to give the direction, at the meeting.
- (7) A disclosure under subsection (2) must be recorded in the board's or committee's minutes.
- (8) If the member is a licensee, the member does not have a direct or indirect interest in a matter if the interest arises merely because the member is a licensee.

## **Division 6                      Directions by Minister**

### **28            Minister's power to give directions in the public interest**

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

## **Division 7                    Other provisions about the board**

### **29            Secretary and other officers**

- (1) The chief executive may, by gazette notice, appoint a secretary to the board, and other officers the chief executive considers appropriate, to help the board to perform its functions.
- (2) A public service officer may be appointed under subsection (1) or may be assigned by the chief executive to perform duties to help the board, and may hold the appointment or perform the duties concurrently with any other appointment the officer holds in the public service.
- (3) The secretary has the powers and must perform the functions of the secretary under this Act.
- (4) Without limiting subsection (3), the secretary must ensure minutes of the board's meetings are kept.

### **30            Authentication of documents**

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

### **31            Protection of members from civil liability**

- (1) A member, or a person acting in the office of a member, is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to the member or person, the liability attaches instead to the State.

### **32            Revenue from fees**

- (1) Revenue received by the board from fees fixed under a regulation must be deposited in—
  - (a) a financial-institution account of the department; or
  - (b) an account used for depositing other amounts of the department.

- (2) Accounts for the revenue must be kept as part of the accounts of the department.
- (3) Revenue received under subsection (1) must be applied toward the administration of this Act.
- (4) Funds that are not immediately required for the administration of this Act may be applied to the objects and purposes appearing to the chief executive to advance the principles, standards or trade of plumbing and drainage.

### **33 Report on the board's operations**

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

## **Part 3 Licensing**

### **Division 1 Classes of licences**

#### **34 Classes of licences**

- (1) The board may issue the following classes of licences—
  - (a) a plumbers licence;
  - (b) a drainers licence;
  - (c) a restricted licence.<sup>3</sup>
- (2) Also, the board may issue a provisional licence for any class of licence mentioned in subsection (1).

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<sup>3</sup> Also, see section 41 (Imposing conditions on licence).

**35 Work that may be performed under licences**

- (1) The holder of a plumbers licence may only perform plumbing work for which the licence is issued.
- (2) The holder of a drainers licence may only perform drainage work for which the licence is issued.
- (3) The holder of a restricted licence may only perform work stated in the licence for plumbing, drainage or other work regulated under this Act.
- (4) The holder of a provisional licence may only perform plumbing or drainage work for which the licence is issued.

**Division 2 Applying for, and issue of, licences****36 Procedural requirements for application**

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

**37 Entitlement to licence**

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



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

### **38 Inquiries into application**

- (1) Before deciding the application, the board may—
  - (a) investigate the applicant, including whether or not the applicant has been convicted of an offence against this Act or the repealed Act; and
  - (b) by notice given to the applicant, require the applicant to give the board, within a reasonable time of at least 20 business days stated in the notice, further information or a document the board reasonably requires to decide the application; and
  - (c) by notice given to the applicant, require the applicant to undergo a written, oral or practical examination within a reasonable time of at least 20 business days stated in the notice, and at a reasonable place.
- (2) The board may require the information or document mentioned in subsection (1)(b) to be verified by a statutory declaration.
- (3) The purpose of an examination under subsection (1)(c) must be to assess the applicant's ability to competently practise the trade.
- (4) The applicant is taken to have withdrawn the application if, within the stated time, the applicant—
  - (a) does not comply with a requirement under subsection (1)(b); or
  - (b) does not undergo an examination under subsection (1)(c).
- (5) A notice under subsection (1)(b) or (c) must be given to the applicant within 40 business days after the board receives the application.

**39 Further consideration of application**

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

*Example for subsection (1)—*

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

- (2) The board may at any time before the final consideration day give notice to the applicant that—
- (a) because of the complexity of the matters that need to be considered in deciding the application, the board needs further time to decide the application; and
  - (b) the period within which the board must decide the application is extended to a day (the ***extended day***) that is 40 business days after the final consideration day.
- (3) Also, the applicant and board may at any time before the final consideration day agree in writing on a day (the ***agreed extended day***) by which the application must be decided.
- (4) The board is taken to have decided to refuse to license the applicant if it does not decide the application by—
- (a) if subsection (2) applies—the extended day; or
  - (b) if subsection (3) applies—the agreed extended day; or
  - (c) if both subsections (2) and (3) apply—the later of the extended day or agreed extended day.

- (5) In this section—

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

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

**40 Decision on application for licence**

- (1) The board must consider the application and decide to—
  - (a) license the applicant; or
  - (b) provisionally license the applicant for the class of licence applied for; or
  - (c) refuse to license the applicant.
- (2) The board may act under subsection (1)(b) only if the board reasonably considers the applicant is eligible for a licence but—
  - (a) the board is satisfied the applicant needs more practical experience before being licensed; or
  - (b) evidence of the applicant's practical experience or qualifications has not been given to the board.

**41 Imposing conditions on licence**

- (1) The board may issue a licence, including a provisional licence, on conditions the board considers necessary or desirable for the licensee to competently practise the trade.
- (2) The board must not record details of the conditions in the register unless it reasonably believes it is in the interests of users of the licensee's services or the public to know the details.

**42 Steps to be taken after application decided**

- (1) If the board decides to license the applicant, including a provisional licence, it must as soon as practicable issue the appropriate licence to the applicant.
- (2) If the board issues a licence with conditions, or issues a provisional licence instead of the licence applied for or refuses to license the applicant, it must as soon as practicable give the applicant an information notice about the conditions, provisional licence or refusal.
- (3) If the board refuses to license the applicant or the applicant withdraws the application, the board must refund to the

applicant the application fee paid, less the amount of the cost to the board of processing the application.

#### **43 Failure to decide application**

- (1) Subject to subsections (2) and (3), if the board fails to decide the application within 40 business days after its receipt, the failure is taken to be a decision by the board to refuse to license the applicant.
- (2) Subsection (3) applies if the board has—
  - (a) under section 38(1)(b), required the applicant to give the board further information or a document; or
  - (b) under section 38(1)(c), required the applicant to undergo an examination.
- (3) The board is taken to have decided to refuse to license the applicant if it fails to decide the application by the later of the following days—
  - (a) the day that is 40 business days after the board receives the further information or document;
  - (b) the day that is 40 business days after the board receives the results of the examination.
- (4) This section is subject to section 39.

#### **44 Form of licence**

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

#### **45 Duration of licence**

- (1) A licence remains in force for the period stated in it.

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

### **Division 3                    Upgrading provisional licences**

#### **46        Board may upgrade provisional licence**

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

### **Division 4                    Renewing licences**

#### **47        Notice of expiry of licence**

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

#### **48        Procedural requirements for applications to renew a licence**

- (1) A licensee, other than a provisional licensee, may apply to the board for the renewal of the licensee's licence.
- (2) The application must be—

- (a) made after the notice under section 47 is given to the licensee and before the licence expires; and
  - (b) in the approved form; and
  - (c) accompanied by—
    - (i) the fee prescribed under a regulation; and
    - (ii) any documents, identified in the approved form, the board reasonably requires to decide the application.
- (3) The fee mentioned in subsection (2)(c)(i) is the reduced fee prescribed under a regulation if the applicant gives the board a statutory declaration stating—
- (a) the applicant is retired; and
  - (b) the applicant no longer performs plumbing or drainage work for payment; and
  - (c) the applicant does not intend to perform plumbing or drainage work for payment.

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

- (1) If an application is made under section 48 to renew a licence, the licence is taken to continue in force from the day it would, apart from this section, have expired until the day a new licence is issued to the applicant under section 50(1).
- (2) Subsection (1) does not apply if the licence is earlier suspended under this Act.

#### **50 Steps to be taken after application made**

- (1) If the application complies with section 48, the board must, as soon as practicable, issue a new licence to the applicant.
- (2) The licence issued under subsection (1) must be subject to the same conditions as the licence that expired.
- (3) If the application does not comply with section 48, the board must, as soon as practicable, tell the applicant how the application does not comply with section 48.

## **Division 5                      Restoring expired licences**

### **51            When application to restore licence may be made**

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

### **52            Procedural requirements for applications to restore licence**

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

### **53            Previous conditions continue for expired licence**

If the board decides to restore the applicant's licence, the licence is subject to the conditions attaching to the licence immediately before its expiry.

### **54            How division 4 applies for applying to restore licence**

For restoring a licence, division 4 applies as if—

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

## **Division 6                      Reviewing licence conditions**

### **55            How licensee may start review**

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

### **56            Reviewing conditions during review period**

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

### **57            Board's powers before making decision**

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



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

## **58 Deemed withdrawal of application etc.**

- (1) Subsections (2) and (3) apply if the conditions are being reviewed because of an application made by the licensee under section 55.
- (2) The licensee is taken to have withdrawn the application if, within the stated time, the licensee does not comply with a requirement under section 57(1)(b).
- (3) A notice under section 57(1)(b) must be given to the licensee within 40 business days after the board receives the application.
- (4) Subsection (5) applies if the conditions are being reviewed under section 56.
- (5) The board is taken to have decided to confirm the conditions if, within the stated time, the licensee does not comply with a requirement under section 57(1)(b).

## **59 Decision on review of conditions**

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

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

## **60 When decision takes effect**

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

**61 Failure by board to make decision on application**

- (1) Subject to subsections (2) and (3), if the board fails to decide an application under section 55<sup>4</sup> within 40 business days after its receipt, the failure is taken to be a decision by the board to confirm the conditions.
- (2) Subsection (3) applies if the board has under section 57(1)(b),<sup>5</sup> required the applicant to give the board further information or a document.
- (3) The board is taken to have decided to confirm the conditions if the board fails to decide the application within 40 business days after the day the board receives the further information or document.

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

- (1) Subject to subsections (2) and (3), if the board fails to make a decision on a review agreed to under section 57<sup>6</sup> within 40 business days after the agreement, the failure is taken to be a decision by the board to confirm the conditions.
- (2) Subsection (3) applies if the board has under section 57(1)(b), required the licensee to give the board further information or a document.
- (3) The board is taken to have decided to confirm the conditions if the board fails to make a decision on the review within 40 business days after the day the board receives the further information or document.

**63 Amendment of, or replacing, licence**

- (1) This section applies if—
  - (a) a licensee receives an information notice, under section 59(4)(b), about decisions relating to a change of a condition of the licensee's licence; or

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4 Section 55 (How licensee may start review)

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

6 Section 57 (Reviewing conditions during review period)

- (b) a licensee receives a notice, under section 59(5), about a decision to remove a condition of the licensee's licence.
- (2) The licensee must, unless the licensee has a reasonable excuse, return the licence to the board within 10 business days after receiving the notice.  
Maximum penalty—10 penalty units.
- (3) On receiving the licence, the board must—
  - (a) amend the licence in an appropriate way and return the amended licence to the licensee; or
  - (b) if the board does not consider it practicable to amend the licence, issue another licence to the licensee to replace the licence returned to the board.

## **Division 7                      Disciplinary action**

### **64                      Grounds for discipline**

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

- (a) obtained the licensee's licence because of a materially false or misleading representation or declaration; or
- (b) not competently performed, or has been involved in the unsatisfactory performance of, work the licensee is authorised to carry out under the licensee's licence; or
- (c) directed or allowed another licensee to perform work—
  - (i) the other licensee is authorised to carry out under his or her licence; and
  - (ii) in a way that does not conform with the appropriate standards; or
- (d) directed or allowed a person to perform work in contravention of section 119; or
- (e) had the licensee's interstate or New Zealand licence conditioned, suspended or cancelled; or
- (f) been convicted of an offence against this Act or the repealed Act.

**65 Disciplinary action that may be taken**

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

**66 Show cause notice**

- (1) If the board believes the ground exists to act under section 65(2), the board must before taking the action give the licensee a notice (a *show cause notice*).
- (2) The show cause notice must—
  - (a) state the ground for proposing to act under section 65(2); and
  - (b) outline the facts and circumstances forming the basis for the ground; and
  - (c) invite the licensee to show within a stated period (the *show cause period*) why the action should not be taken.
- (3) The show cause period must be a period ending not less than 20 business days after the show cause notice is given to the licensee.

**67 Representations about show cause notice**

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

- (2) If the board is satisfied the licensee may be disadvantaged if the licensee does not make personal representations to the board, the board may allow the licensee to make personal representations about the show cause notice to the board in the show cause period.
- (3) The board must consider all representations (the *accepted representations*) made under subsection (1) or (2).

**68 Board must decide action to be taken**

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

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

**69 Board must advise licensee of its decision**

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

**70 When suspension or cancellation takes effect**

If the board suspends or cancels the licensee's licence, the licence is suspended or cancelled from the day the information notice is given to the licensee.

**71 Returning suspended or cancelled licence to board**

- (1) If the board suspends or cancels a licence, the licensee or former licensee must return the licence to the board within 10 business days after receiving the information notice, unless the licensee or former licensee has a reasonable excuse.

Maximum penalty—10 penalty units.

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

## **Division 8                    General provisions about licences**

### **72            Surrendering licence**

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

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

### **73            Replacing licence**

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

**74 Certified copy of licence**

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

**75 Notice of change in circumstances**

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

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

- (1) This section applies if—
  - (a) a licence is cancelled under this Act; or
  - (b) conditions are imposed, under this Act, on a licence; or
  - (c) conditions on a licence are removed under this Act.
- (2) As soon as practicable after an event mentioned in subsection (1) happens, the board must give notice about the event to each interstate or the New Zealand licensing authority with which the board is aware the licensee is licensed.



- (3) Also, the board may give notice about the event to any of the following—
  - (a) professional or industry associations of which the licensee is eligible to be a member;
  - (b) an employer of the licensee;
  - (c) another entity having a connection with the trade.
- (4) However, the board must not give a notice about the event to an entity under subsection (3) unless the board reasonably believes the entity needs to know about the event.
- (5) A notice under this section may include the information the board considers appropriate in the circumstances.

## **77 Register of licences**

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

# **Part 4 Compliance assessment**

## **Division 1 Preliminary**

### **78 Compliance permit**

- (1) A *compliance permit* authorises regulated work to be carried out—
  - (a) to the extent stated in the permit; and
  - (b) subject to any conditions for achieving compliance.
- (2) A compliance permit has effect for—
  - (a) the period prescribed under a regulation; or
  - (b) if no period is prescribed under paragraph (a)—2 years from the day the compliance permit was given.
- (3) However, if the regulated work starts while the compliance permit has effect, the permit continues to have effect.

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

## **79 Compliance certificate**

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

## **Division 2 Compliance assessment generally**

### **80 Purpose of compliance assessment**

The purpose of compliance assessment is to allow for—

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

### **81 Regulated work must be assessed for compliance**

Regulated work must be assessed for compliance with the Standard Plumbing and Drainage Regulation.

### **82 Plans and all plumbing and drainage work must comply**

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

Maximum penalty—165 penalty units.

- (2) Subsection (1) applies even if a compliance permit given by a local government or public sector entity is contrary to the Standard Plumbing and Drainage Regulation.

**83 Compliance permit required for certain regulated work**

- (1) Subject to subsection (2), a person must not carry out regulated work unless the person has a compliance permit for the work.

Maximum penalty—1 665 penalty units.

- (2) Subsection (1) does not apply to regulated work a local government decides by resolution is work for which a compliance permit is not required.
- (3) If a local government makes a resolution for subsection (2), the local government must—
- (a) give a copy of the resolution to the chief executive; and
  - (b) ensure a copy of it is open to inspection under the *Local Government Act 1993*.

**84 Regulated work by a public sector entity**

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

## Division 3                      Assessing plans

### 85            Process for assessing plans

- (1) A request for compliance assessment of a plan for regulated work (a ***compliance request***) must be—
  - (a) in the approved form; and
  - (b) made to the local government; and
  - (c) accompanied by the fee fixed by resolution of the local government.
- (2) The local government may give the person making the request, a written notice (an ***information request***), requesting further information needed to assess the plan.
- (3) An information request must be made within 10 business days after the plan is received.
- (4) The compliance request must be decided within 20 business days—
  - (a) if an information request is not made—after receiving the compliance request; or
  - (b) if an information request is made—after receiving the information requested.
- (5) The local government must in deciding the compliance request—
  - (a) give the person making the request a compliance permit; or
  - (b) refuse to give a compliance permit.
- (6) A compliance permit may be given on reasonable and relevant conditions decided by the local government for achieving compliance.
- (7) If the local government gives a compliance permit, the local government must also give a copy of the permit to the owner of the premises to which the permit relates.
- (8) If the local government does not decide the compliance request within the time stated in subsection (4), the request is taken to have been refused.

- (9) If the local government refuses to give a compliance permit or gives a compliance permit on conditions, the local government must give the person who made the request an information notice about the decision.<sup>7</sup>

## **Division 4                      Assessing plumbing and drainage work**

### **86            Process for assessing regulated work**

- (1) A request for compliance assessment of regulated work must be—
- (a) in the approved form; and
  - (b) made to the local government; and
  - (c) accompanied by the fee fixed by resolution of the local government.
- (2) A request to assess the work at a particular stage may be made by phone or electronically.
- (3) The local government must assess the work at the stages prescribed under a regulation.
- (4) After assessing the work the local government may ask the person making the request to supply a plan of the assessed work.
- (5) The request must be decided within 3 business days—
- (a) if the local government has not requested a plan of the assessed work—after assessing the completed work; or
  - (b) if the local government has requested a plan of the assessed work—after receiving the plan.
- (6) The local government must in deciding the request—
- (a) give the person making the request a compliance certificate; or

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<sup>7</sup> For appeals against the decision, see the *Integrated Planning Act 1997*, chapter 4 (Appeals, offences and enforcement), part 2 (Building and development tribunals), divisions 4 to 6.

- (b) refuse to give a compliance certificate.
- (7) If the local government gives a compliance certificate, the local government must also give a copy of the certificate to the owner of the premises to which the certificate relates.
- (8) If the local government does not decide the request within the time stated in subsection (5), the request is taken to have been refused.
- (9) If the local government refuses to give a compliance certificate, the local government must give the person who made the request an information notice about the decision.<sup>8</sup>

### **86A Process for assessing certain regulated work in remote areas**

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

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<sup>8</sup> For appeals against the decision, see the *Integrated Planning Act 1997*, chapter 4 (Appeals, offences and enforcement), part 2 (Building and development tribunals), divisions 4 to 6.

- (4) The request must be decided within 3 business days—
  - (a) if the local government has not requested a plan of the work—after receiving the notice; or
  - (b) if the local government has requested a plan of the work—after receiving the plan.
- (5) The local government must in deciding the request—
  - (a) give the person making the request a compliance certificate; or
  - (b) refuse to give a compliance certificate.
- (6) If the local government gives a compliance certificate, the local government must also give a copy of the certificate to the owner of the premises to which the certificate relates.
- (7) If the local government does not decide the request within the time stated in subsection (4), the request is taken to have been refused.
- (8) If the local government refuses to give a compliance certificate, the local government must give the person who made the request an information notice about the decision.<sup>9</sup>
- (9) If a local government makes a resolution for subsection (1), the local government must—
  - (a) give a copy of the resolution to the chief executive; and
  - (b) ensure a copy of it is open to inspection under the *Local Government Act 1993*.

## **87 Minor work**

- (1) Subsection (1A) applies if a person carries out minor work prescribed under the Standard Plumbing and Drainage Regulation as notifiable minor work.
- (1A) The person must, within 20 business days after carrying out the work, give written notice in the approved form to the local government stating the work has been completed.

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<sup>9</sup> For appeals against the decision, see the *Integrated Planning Act 1997*, chapter 4 (Appeals, offences and enforcement), part 2 (Building and development tribunals), divisions 4 to 6.

Maximum penalty for subsection (1A)—10 penalty units.

- (2) The local government may, but need not, assess the work.

## **88 Unregulated work**

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

## **Division 5 Standard Plumbing and Drainage Regulation**

### **89 Administration of Standard Plumbing and Drainage Regulation**

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

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

The Standard Plumbing and Drainage Regulation may prescribe—

- (a) requirements for a plan mentioned in section 85, 86 or 86A; or



- (b) additional actions that may, or must, be taken by the local government.

## **Part 5                      On-site sewerage facilities**

### **Division 1                Preliminary**

#### **91            Definition for pt 5**

In this part—

*on-site sewerage facility* does not include an on-site sewerage facility that consists of, or that includes, a sewage treatment works the operation of which is an environmentally relevant activity under the *Environmental Protection Act 1994*.

### **Division 2                Codes and standards applying to on-site sewerage facilities**

#### **92            Codes and standards applying to on-site sewerage facilities**

- (1) For the construction, installation and operation of on-site sewerage facilities that are not chemical, composting or incinerating toilets, the following apply—
  - (a) the on-site sewerage code;
  - (b) to the extent the facility consists of a septic tank—AS/NZS 1546.
- (2) For subsection (1)(b), AS/NZS 1546 is taken to apply to all septic tanks and not merely to septic tanks of a size mentioned in AS/NZS 1546.
- (3) For the construction, installation and operation of on-site sewerage facilities that are chemical, composting or incinerating toilets, the design rules prescribed under a

regulation under the *Environmental Protection Act 1994* apply.<sup>10</sup>

## **Division 3                      Model and type specification approvals**

### **93                      Model approval for prefabricated items**

- (1) A person may apply to the chief executive for an approval (a *model approval*) for a stated prefabricated item.
- (2) The chief executive may give the model approval only if the chief executive is reasonably satisfied the item conforms with the on-site sewerage code.
- (3) The chief executive may give the model approval on conditions, including conditions about the way the item must be manufactured, installed, operated, serviced and maintained.

*Example—*

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

- a plant must be supplied with evidence of the chief executive's model approval given under this section
  - a plant must be supplied with details of the model of the plant
  - a plant must be supplied with instructions for its installation, operation and maintenance.
- (4) A model approval lasts for 5 years or a shorter time decided by the chief executive when giving the approval.
  - (5) Within a reasonable time after giving a model approval, the chief executive must—
    - (a) by gazette notice—
      - (i) notify the giving of the approval; and
      - (ii) advise where a copy of the approval may be examined or obtained; and

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<sup>10</sup> See the *Environmental Protection (Waste Management) Regulation 2000*, schedule 8, part 2.

- (b) ensure the copy may be examined free of charge and obtained at a reasonable cost at the place stated in the notice.
- (6) If the chief executive gives the model approval on conditions or refuses to give a model approval, the chief executive must give the person an information notice about the decision.

#### **94 Type specification approval for built items**

- (1) A person may apply to the chief executive for an approval (a *type specification approval*) for a stated built item.
- (2) The chief executive may give the type specification approval only if the chief executive is reasonably satisfied the item conforms with the on-site sewerage code.
- (3) The chief executive may give the type specification approval on conditions, including conditions about the way the item must be built, operated, serviced and maintained.
- (4) A type specification approval lasts for 5 years or a shorter time decided by the chief executive when giving the approval.
- (5) Within a reasonable time after giving a type specification approval, the chief executive must—
  - (a) by gazette notice—
    - (i) notify the giving of the approval; and
    - (ii) advise where a copy of the approval may be examined or obtained; and
  - (b) ensure the copy may be examined free of charge and obtained at a reasonable cost at the place stated in the notice.
- (6) If the chief executive gives the type specification approval on conditions or refuses to give a type specification approval, the chief executive must give the person an information notice about the decision.

**95 Misleading statement by builder, manufacturer or supplier**

- (1) A builder, manufacturer or supplier of a prefabricated or built item must not make a statement to another person that the item has, or might reasonably suggest the item has, a model approval or type specification approval unless the item has a model approval or type specification approval.

Maximum penalty—100 penalty units.

- (2) A builder, manufacturer or supplier of a prefabricated item must not make a statement to another person that the manufacture, installation, operation, service or maintenance of the item conforms, or might reasonably suggest the item conforms, with the conditions of a model approval unless the item conforms with the conditions of the model approval.

Maximum penalty—100 penalty units.

- (3) A builder, manufacturer or supplier of a built item must not make a statement to another person that the building, operation, service or maintenance of the item conforms, or might reasonably suggest the item conforms, with the conditions of a type specification approval unless the item conforms with the conditions of the type specification approval.

Maximum penalty—100 penalty units.

- (4) In this section—

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

**Division 4 Role of local governments****96 Approval for on-site sewerage facilities**

- (1) The owner of premises may apply to the local government for an approval to build, install or change an on-site sewerage facility on the premises.
- (2) The local government may give the approval only if—

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- (a) the premises can not be served by a sewerage system or the facility is required as part of a common effluent drainage scheme; and
  - (b) the facility is designed to comply with the codes, standards or design rules mentioned in section 92; and
  - (c) it is satisfied there is enough water available to the premises for operating the facility; and
  - (d) the facility is suitable in the circumstances, including, for example, that—
    - (i) there is enough suitable land available as part of the premises for disposal of effluent from the facility; or
    - (ii) there is not enough suitable land available as part of the premises for disposal of effluent from the facility, but a suitable alternative arrangement for the disposal of effluent is available; and
  - (e) if the facility includes an on-site sewage treatment plant (other than an on-site sewage treatment plant consisting only of a septic tank)—
    - (i) to the extent the plant consists of a prefabricated item—the plant conforms with a model approval; or
    - (ii) to the extent that the plant consists of a built item—the plant conforms with a type specification approval.
- (3) The approval may be given on conditions (*on-site facility conditions*), including conditions—
- (a) about building, installing, operating, servicing or maintaining the facility; or

*Examples of conditions of installation—*

A condition may require the owner of premises to install a grease arrester and outline its maintenance requirements.

- (b) about effluent disposal; or

*Examples of conditions of effluent disposal—*

- 1 A condition may require the owner of premises to keep an area of land in reserve for the future replacement of a disposal area.
- 2 If an on-site sewerage facility includes a sewage treatment plant, a condition may require that the effluent from the plant not be disposed of by spraying or another method that produces aerial mists or sprays.

- (c) requiring replacement of a part of the facility within a stated time.

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

**97 Notice to build or install on-site sewerage facility or dispose of greywater**

- (1) A local government may, by written notice given to the owner of premises, require the owner—
- (a) to build or install an on-site sewerage facility on the premises; or
  - (b) if the premises are outside a sewerage service provider's service area under the *Water Act 2000*—to dispose of sewage (other than human waste) on the premises by a stated system of on-site disposal.
- (2) The notice must state—
- (a) the time (the *initial period*) for completing the work; and
  - (b) that the work must be completed within the initial period or within any further time the local government may, whether before or after the end of the initial period, decide; and
  - (c) that the local government's approval to the proposed work must be given before work starts; and
  - (d) that the owner may ask the local government to prepare the plans needed for the work; and

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- (e) anything else the owner must do to get the approval mentioned in paragraph (c); and

*Example for paragraph (e)—*

The notice may require the owner to give the local government a stated number of plans drawn to a stated scale.

- (f) that the owner may apply for a review of the decision to make the requirement within 20 business days and how to apply for the review.
- (3) The initial period must be—
- (a) a time that is reasonable in the circumstances; and
- (b) subject to subsection (4), at least 1 month after the notice is given to the owner.
- (4) The initial period may be less than 1 month but must not be less than 48 hours if the work stated in the notice is required to stop a serious health risk continuing.
- (5) The owner must comply with the notice, unless the owner has a reasonable excuse.

Maximum penalty for subsection (5)—165 penalty units.

## **98 Notice to repair on-site sewerage facility**

- (1) A local government may, by written notice given to the owner of premises, require the owner to perform work that is reasonably necessary for fixing or otherwise dealing with an on-site sewerage facility that is—
- (a) defective; or
- (b) not adequate for dealing with the sewage generated on the premises; or
- (c) in a condition likely to—
- (i) cause a nuisance; or
- (ii) be detrimental to public health; or
- (d) being used other than under this Act.
- (2) Without limiting subsection (1), the notice may require the owner—
- (a) to repair or replace a defective component; or

- (b) to improve a component's performance or replace a component with another component the performance of which is consistent with a requirement of this Act; or
  - (c) to remedy a contravention of this Act.
- (3) The notice must state—
- (a) the time (the *initial period*) for completing the work; and
  - (b) that the work must be completed within the initial period or within any further time the local government may, whether before or after the end of the initial period, decide; and
  - (c) that the owner may apply for a review of the decision to make the requirement within 20 business days and how to apply for the review.
- (4) The initial period must be—
- (a) a time that is reasonable in the circumstances; and
  - (b) subject to subsection (5), at least 1 month after the notice is given to the owner.
- (5) The initial period may be less than 1 month but must not be less than 48 hours if the work stated in the notice is required to stop a serious health risk continuing.
- (6) The owner must comply with the notice, unless the owner has a reasonable excuse.

Maximum penalty for subsection (6)—165 penalty units.

## **99 Notice to remove on-site sewerage facility**

- (1) This section applies if—
- (a) an owner's premises are connected to a sewerage service provider's infrastructure under the *Water Act 2000*; or
  - (b) a local government receives a notice under section 106.
- (2) The local government may, by written notice given to the owner, require the owner to—
- (a) dismantle, remove or render safe any part of an on-site sewerage facility; and



- (b) dispose of the contents of the facility.
- (3) The notice must state—
  - (a) the time (the *initial period*) for completing the work; and
  - (b) that the work must be completed within the initial period or within any further time the local government may, whether before or after the end of the initial period, decide; and
  - (c) for subsection (2)(b), the way in which the contents must be disposed of; and
  - (d) that the owner may apply for a review of the decision to make the requirement within 20 business days and how to apply for the review.
- (4) The initial period must be—
  - (a) a time that is reasonable in the circumstances; and
  - (b) subject to subsection (5), at least 1 month after the notice is given to the owner.
- (5) The initial period may be less than 1 month but must not be less than 48 hours if the work stated in the notice is required to stop a serious health risk continuing.
- (6) The owner must comply with the notice, unless the owner has a reasonable excuse.

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

## **100 Approval to build or install on-site sewerage facility for testing purposes**

- (1) A person may apply to the local government for approval to build or install, for testing purposes, an on-site sewage treatment plant (other than an on-site sewage treatment plant consisting only of a septic tank).
- (2) The local government may give the approval only if it is satisfied—
  - (a) the person has applied to the chief executive for a model approval or type specification approval for the plant; and

- (b) the chief executive has approved the use of the plant in the local government's area for testing purposes; and
  - (c) the applicant has agreed in writing to take the plant away at the end of the test if the chief executive does not give a model approval or type specification approval.
- (3) The approval may be given on conditions (*on-site facility conditions*).
  - (4) If the local government gives the approval on conditions or refuses to give an approval, the local government must give the person an information notice about the decision.
  - (5) If the chief executive refuses to give a model approval or type specification approval for the plant, the applicant must remove the plant as soon as reasonably practicable after the refusal.

Maximum penalty—100 penalty units.

## **Division 5                      Responsibilities of owners and others relating to on-site sewerage facilities**

### **101      Codes and standards for building, installing or operating on-site sewerage facilities**

- (1) A person must not build, install or operate an on-site sewerage facility that is not a chemical, composting or incinerating toilet in a way that does not conform with the on-site sewerage code.

Maximum penalty—100 penalty units.

- (2) To the extent an on-site sewerage facility consists of a septic tank, a person must not build, install or operate the tank in a way that does not conform with AS/NZS 1546.

Maximum penalty—100 penalty units.

- (3) To the extent an on-site sewerage facility consists of a prefabricated item (other than an on-site sewage treatment plant consisting only of a septic tank), a person must not build, install or operate the facility unless—

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- (a) at the time the item was installed, it had a current model approval; and
- (b) it is operated as required by the conditions of the approval.

Maximum penalty—100 penalty units.

- (4) To the extent an on-site sewerage facility consists of a built item (other than an on-site sewage treatment plant consisting only of a septic tank), a person must not build, install or operate the facility unless—
  - (a) at the time the item was built, it had a current type specification approval; and
  - (b) it is operated as required by the conditions of the approval.

Maximum penalty—100 penalty units.

- (5) A person must not build, install or operate an on-site sewerage facility that is a chemical, composting or incinerating toilet other than as required by the design rules prescribed under a regulation under the *Environmental Protection Act 1994*.

Maximum penalty—100 penalty units.

- (6) A person must not build, install or operate an on-site sewerage facility in a way that does not conform with on-site facility conditions applying to the facility.

Maximum penalty—100 penalty units.

- (7) A person must not, without the local government's approval build, install or change an on-site sewerage facility on premises.

Maximum penalty—100 penalty units.

- (8) A person must not, without the local government's approval dismantle or take away all or part of the facility from the premises.

Maximum penalty—100 penalty units.

- (9) Subsection (8) does not apply if the action is authorised by a condition of a model approval or type specification approval.
- (10) A person must install an on-site sewerage facility, to the greatest practicable extent—

- (a) clear of any building; and
- (b) for a part that is a tank—in a place giving enough access to allow sludge to be removed.

Maximum penalty—100 penalty units.

- (11) A person must not install a storage tank for sewage or effluent if the tank is not, to the greatest practicable extent, designed, built and tested in the way a septic tank is designed, built and tested under AS/NZS 1546.

Maximum penalty—100 penalty units.

- (12) Subsections (1) to (5) do not apply to the operation of an on-site sewerage facility built or installed before 30 April 1998 unless—
- (a) an application to change the facility is approved under section 96; or
  - (b) a notice is given under section 98 for the facility.

## **102 Service and maintenance**

- (1) The owner of an on-site sewerage facility must—
- (a) take all reasonable steps to keep the facility in good working order; and
  - (b) maintain each part of the facility that is a built or prefabricated item as required by the conditions of the model and type specification approval for the item.

Maximum penalty—100 penalty units.

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

Maximum penalty—40 penalty units.

- (3) The service person must not make a statement to the local government or the facility's owner about the facility that the

service person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

- (4) It is enough for a complaint for an offence under subsection (3) to state the statement made was false or misleading to the service person's knowledge without specifying which.

### **103 Disposal of contents of on-site sewerage facility**

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

Maximum penalty—100 penalty units.

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

Maximum penalty—100 penalty units.

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

### **104 Stormwater drainage must be separate from on-site sewerage facility**

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

Maximum penalty—165 penalty units.

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

Maximum penalty—165 penalty units.

**105 Permissible and prohibited discharges**

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

Maximum penalty—165 penalty units.

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

Maximum penalty—165 penalty units.

**106 On-site sewerage facility no longer required**

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

Maximum penalty—40 penalty units.

**Part 6 Investigation, enforcement and offences****Division 1 Inspectors****107 Appointment and qualifications**

- (1) For this Act, a local government may appoint an individual to be an inspector if it is satisfied the individual is qualified for appointment because the individual has the qualifications and experience prescribed under a regulation.

- (2) A local government must—

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

**108 Appointment conditions and limit on powers**

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

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

**109 Issue of identity card**

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

**110 Production or display of identity card**

- (1) In exercising a power under this Act in relation to a person, an inspector must—
  - (a) produce the inspector's identity card for the person's inspection before exercising the power; or
  - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.

- (2) However, if it is not practicable to comply with subsection (1), the inspector must produce the identity card for the person's inspection at the first reasonable opportunity.
- (3) For subsection (1), an inspector does not exercise a power in relation to a person only because the inspector has entered a place.

### **111 When inspector ceases to hold office**

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

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

### **112 Resignation**

- (1) An inspector may resign by signed notice given to the chief executive officer of the local government.
- (2) However, if holding office as an inspector is a condition of the inspector holding another office, the inspector may not resign as an inspector without resigning from the other office.

### **113 Return of identity card**

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

Maximum penalty—25 penalty units.



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

- (1) An inspector's functions are to conduct investigations and inspections for monitoring and enforcing compliance with—
  - (a) this Act; or
  - (b) the *Integrated Planning Act 1997*; or
  - (c) the *Local Government Act 1993*.
- (2) Subsection (1)(b) and (c) apply, to the extent possible for the Acts mentioned in subsection (1)(b) and (c), for plumbing or drainage on premises.
- (3) For performing an inspector's functions, the inspector—
  - (a) has the powers of an authorised person under the *Local Government Act 1993*, section 1084<sup>11</sup> and a reference in chapter 15, part 5 of that Act to an authorised person is, for this Act, taken to be a reference to an inspector under this Act; and
  - (b) may give a notice requiring work regulated under the Acts mentioned in subsection (1) to be performed.

**Division 2 Enforcement****115 Show cause notices**

- (1) Before a local government gives a person an enforcement notice under section 116(1)(b) or (c) or (2), the local government must give the person written notice (a ***show cause notice***) inviting the person to show cause why an enforcement notice should not be given to the person.
- (2) The show cause notice must—
  - (a) outline the facts and circumstances forming the basis for the belief that an enforcement notice should be given to the person; and

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

- (b) state that representations may be made about the show cause notice; and
  - (c) state how the representations may be made; and
  - (d) state where the representations may be made or sent; and
  - (e) state—
    - (i) a day and time for making the representations; or
    - (ii) a period within which the representations must be made.
- (3) The day or period stated in the notice must be, or must end, at least 20 business days after the notice is given.

### **116 Enforcement notices for plumbing and drainage**

- (1) A local government may give written notice to the owner of premises requiring the owner to do a stated thing if the local government reasonably believes plumbing or drainage on the premises—
- (a) is in a condition, or functions in a way, that constitutes a danger or health risk to occupiers of the premises or the public; or
  - (b) is defective and should be altered, repaired or replaced; or
  - (c) for plumbing and drainage installed on the premises—was installed without, or not in accordance with, the approval of the local government.
- (2) A local government may give written notice to a person who has performed plumbing or drainage work requiring the person to do a stated thing if the local government reasonably believes the work does not comply with this Act.
- (3) Without limiting specific requirements, a notice under subsection (1) or (2) may require the owner or person to do any of the following—
- (a) request compliance assessment;

- (b) do, or not do, a stated thing to ensure plumbing or drainage work complies with the approval of the local government;
- (c) alter, repair or replace plumbing or drainage.

### **117 Enforcement notices for backflow prevention devices**

- (1) Subsection (2) applies if a local government reasonably believes pollution of the water supply in premises or the water service provider's water service to premises has been, or could be, caused by the plumbing on the premises.
- (2) The local government may give written notice to the owner or occupier of the premises to do any of the following—
  - (a) install a backflow prevention device;
  - (b) register a backflow prevention device that is required to be registered under the Standard Plumbing and Drainage Regulation;
  - (c) have a backflow prevention device inspected, tested and if necessary repaired or replaced by a licensee licenced to do the work.
- (3) Subsection (2) does not limit specific requirements of a notice given under the subsection.

### **118 Relationship with Integrated Planning Act 1997**

- (1) An enforcement notice given under this Act is taken to be an enforcement notice given under the *Integrated Planning Act 1997*.<sup>12</sup>
- (2) If the notice is given under section 116(1)(a), the appeal must be started within 5 business days after the day the notice is given.
- (3) Subsection (2) applies despite the *Integrated Planning Act 1997*, section 4.2.13(2).<sup>13</sup>

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

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

## **Division 3                      Offences about licences**

### **119      Offences by persons not holding appropriate licence**

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

Maximum penalty—165 penalty units.

- (2) However, a person does not commit an offence against subsection (1) if—
- (a) the person carries out work consisting merely of the excavation or backfilling of trenches or any other work of an unskilled nature; or
  - (b) the person is an apprentice, as defined under the *Training and Employment Act 2000*, who performs plumbing or drainage work under the direct supervision of a person holding a licence that entitles the licence holder to perform the work; or
  - (c) the person performs drainage work under the direct supervision of a person holding a drainers licence.

### **120      Contravening licence conditions**

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

Maximum penalty—100 penalty units.

### **121      Limitations on provisional licence holders**

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

Maximum penalty—100 penalty units.

- (2) The holder of a provisional licence must not perform work the holder is entitled to perform under the licence unless the work

is performed under the supervision of a licensee entitled to do the work being performed.

Maximum penalty—100 penalty units.

## **122 Restriction on advertising as a licence holder**

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

Maximum penalty—100 penalty units.

## **Division 4 Offences about plumbing and drainage**

### **123 Owner's duty to maintain plumbing and drainage**

The owner of premises must take all reasonable steps to make sure that all plumbing and drainage on the premises is kept in good condition and operates properly.

Maximum penalty—165 penalty units.

### **124 Offence to pollute service provider's services**

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

Maximum penalty—165 penalty units.

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

Maximum penalty—165 penalty units.

**125 Offence to remove or tamper with backflow prevention device**

A person must not—

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

Maximum penalty—165 penalty units.

**126 Offence to remove or tamper with a hot water control devices**

(1) A person must not—

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

Maximum penalty—165 penalty units.

(2) In this section—

*hot water control device* means—

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

## Division 5                    Other offences

### 127    Obstruction of inspectors

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

Maximum penalty—40 penalty units.

- (2) In this section—

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

### 128    Impersonation of inspector

A person must not pretend to be an inspector.

Maximum penalty—40 penalty units.

## Part 7                        Reviews

### Division 1                    Reviews about plumbing and drainage licences

#### 129    Applying for a review

- (1) This section applies if an applicant or licensee is given, or is entitled to be given, an information notice for a decision under part 3 (the *original decision*) and the applicant or licensee—

- (a) is dissatisfied with the decision; or  
(b) was not given an information notice about the decision.

- (2) The applicant or licensee may apply for a review of the decision as if it were a reviewable decision under the *Commercial and Consumer Tribunal Act 2003*.

- (3) The application must be made within 28 days after—
  - (a) if the applicant or licensee is given an information notice about the original decision—the day the applicant or licensee is given the notice; or
  - (b) if paragraph (a) does not apply—the day the applicant or licensee becomes aware of the original decision.

### **130 Review of decision**

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

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

- (1) The Commercial and Consumer Tribunal may, in reviewing the decision—
  - (a) confirm the original decision; or
  - (b) amend the original decision; or
  - (c) substitute another decision for the original decision; or
  - (d) set aside the original decision and return the matter to the board with the directions the tribunal considers appropriate.
- (2) In substituting another decision for the original decision, the tribunal has the same powers as the board in making the original decision.

*Example—*

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

- (3) If the tribunal amends the original decision or substitutes another decision for the original decision, the amended or substituted decision is, for this Act (other than this division) taken to be the decision of the board.
- (4) If the tribunal decides to impose conditions on a licence, the tribunal must—



- (a) state the reasons for the decision; and
- (b) decide and state the review period applying to the conditions.

## **Division 2                      Reviews about on-site sewerage facilities**

### **132      Applying for a review**

- (1) This section applies if a person (the *applicant*) is given, or is entitled to be given—
  - (a) an information notice about a decision under part 5 (the *original decision*); or
  - (b) a notice by a local government about a decision to make a requirement under part 5 (also the *original decision*).
- (2) The applicant may apply to the decision maker (the *reviewer*) for a review of the decision.
- (3) The application must be made within 20 business days after—
  - (a) if the applicant is given a notice for the original decision—the day the applicant is given the notice; or
  - (b) if paragraph (a) does not apply—the day the applicant becomes aware of the original decision.
- (4) The reviewer may extend the time for applying for a review.
- (5) The application does not stay the original decision.
- (6) The application must not be dealt with by—
  - (a) the person who made the original decision; or
  - (b) a person in a less senior office than the person who made the original decision.
- (7) Subsection (6)—
  - (a) applies despite the *Acts Interpretation Act 1954*, section 27A; and
  - (b) does not apply to an original decision made by the chief executive.

- (8) The application must be supported by enough information to enable the reviewer to decide the application.

### **133 Review decision**

- (1) Subsection (2) applies if the reviewer is satisfied the applicant has complied with section 132.
- (2) The reviewer must, within 20 business days after receiving the application—
- (a) review the original decision; and
  - (b) make a decision (the *review decision*) to—
    - (i) confirm the original decision; or
    - (ii) amend the original decision; or
    - (iii) substitute another decision for the original decision.
- (3) Within 10 business days after making the review decision, the reviewer must give the applicant notice (the *review notice*) of the review decision.
- (4) If the review decision is not the decision sought by the applicant, the review notice must also state—
- (a) the reasons for the review decision; and
  - (b) that the applicant may appeal against the review decision to a building and development tribunal within 20 business days; and
  - (c) how to appeal.<sup>14</sup>
- (5) If the reviewer does not comply with subsection (2) or (3), the reviewer is taken to have made a decision confirming the original decision.

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<sup>14</sup> For appeals against the decision, see the *Integrated Planning Act 1997*, section 4.2.12A (Appeals for plumbing and drainage matters).

## **Part 8                      Legal proceedings**

### **Division 1                Evidence**

#### **134      Application of div 1**

This division applies to a proceeding under this Act.

#### **135      Appointments and authority**

It is not necessary to prove—

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

#### **136      Signatures**

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

#### **137      Evidentiary provisions**

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

- (a) a stated document is 1 of the following things made, given, issued or kept under this Act—
  - (i) an appointment, approval or decision;
  - (ii) a direction, notice or requirement;
  - (iii) a licence;
  - (iv) a record;
  - (v) the register;
- (b) a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a);

- (c) on a stated day, or during a stated period, a person's appointment as an inspector was, or was not, in force;
- (d) on a stated day, or during a stated period, a licence—
  - (i) was or was not in force; or
  - (ii) was or was not subject to a stated condition;
- (e) on a stated day, a licence was suspended or cancelled;
- (f) on a stated day, a stated person was given a stated notice or direction under this Act;
- (g) on a stated day, a stated requirement was made of a stated person.

## **Division 2                      Offence proceedings**

### **138      Offences under Act are summary**

- (1) An offence against this Act is a summary offence.
- (2) A proceeding for the offence must start within the later of the following periods to end—
  - (a) 1 year after the commission of the offence;
  - (b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

### **139      Statement of complainant's knowledge**

In a complaint starting a proceeding for an offence against this Act, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence of the matter stated.

### **140      Conduct of representatives**

- (1) This section applies to a proceeding for an offence against this Act if it is relevant to prove a person's state of mind about particular conduct.



**142 Maintenance of existing combined sanitary drains**

- (1) This section applies if—
  - (a) 2 or more premises in a local government’s sewerage area are served by an existing combined sanitary drain; and
  - (b) the drain is obstructed, in disrepair or damaged because of defective materials, breakages or tree root intrusion; and
  - (c) the owners of the premises can not agree on suitable and fair arrangements for removing the obstruction or repairing or rebuilding the drain.
- (2) However, this section does not apply to a sanitary drain if the premises the sanitary drain serves are included in a community titles scheme under the *Body Corporate and Community Management Act 1997* or form part of a building unit plan or group title plan under the *Building Units and Group Titles Act 1980*.
- (3) The local government may—
  - (a) perform the work; and
  - (b) fairly apportion the reasonable overall cost among the owners; and
  - (c) recover from each owner, the owner’s share of the costs.

**143 Local government’s obligation to keep particular records**

- (1) A local government must keep a copy of the plan and any other relevant document relating to each compliance permit until the premises to which the plan relates are demolished or removed.<sup>15</sup>
- (2) A local government must keep a copy of each compliance certificate and any plan of assessed work until the premises to which the certificate relates are demolished or removed.<sup>16</sup>

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15 See section 85 (Process for assessing plans).

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

**144 Chief executive may publish information**

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

- (a) plumbing and drainage; or

*Example for paragraph (a)—*

A resolution mentioned in section 83.

- (b) licensed plumbers and drainers.

**145 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation (the *Standard Plumbing and Drainage Regulation*) may be made about plumbing and drainage work and the inspection of the work.
- (3) A regulation under subsection (1) or (2) may—
- (a) state the practical experience and qualifications for persons to be the holders of licences; or
- (b) fix the fees payable under this Act and the way, time, place, and the person by and to whom the fees must be paid; or
- (c) provide for a maximum penalty of not more than 20 penalty units for a contravention of a regulation.

**146 References to repealed Act, by-laws and laws**

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

- (g) Standard Water Supply By-laws (however described); or
  - (h) the Standard Water Supply Law.
- (2) On and from the commencement, the reference may, if the context permits, be taken to be a reference to this Act or the Standard Plumbing and Drainage Regulation.

## **Part 10                      Repeal and transitional provisions**

### **Division 1                      Repeal**

#### **147      Act repealed**

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

### **Division 2                      Transitional provisions about members, inspectors and licensing**

#### **148      Board members under the repealed Act continue in office**

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

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

#### **149      Inspectors under the repealed Act continue in office**

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



**150 Licence applications continue under repealed Act**

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

**151 Licences issued under the repealed Act continue**

- (1) Subsection (2) applies if a licence issued under the repealed Act is in force immediately before the commencement of this section.
- (2) The licence—
  - (a) if it was a plumber's licence—is taken to be a plumber's licence under this Act; or
  - (b) if it was a country plumber's licence—is taken to be a plumber's licence under this Act that is subject to the limitations stated in section 19(3) of the repealed Act; or
  - (c) if it was a water plumber's licence—is taken to be a plumber's licence under this Act that is subject to the limitations stated in section 19(4) of the repealed Act; or
  - (d) if it was a drainer's licence—is taken to be a drainer's licence under this Act; or
  - (e) if it was a restricted plumber's licence or a restricted drainer's licence—is taken to be a restricted licence under this Act that is subject to the limitations stated in section 20 of the repealed Act; or
  - (f) if it was an interim licence—is taken to be a provisional licence under this Act that is subject to the limitations stated in section 18 of the repealed Act.

### **Division 3                      Transitional provisions about plumbing and drainage work**

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

- (1) Subsection (2) applies if—
  - (a) an application was made under the repealed Act for approval to carry out plumbing or drainage work; and
  - (b) the application had not been decided by the commencement of this section.
- (2) The application must be decided as if the repealed Act had not been repealed.
- (3) Section 153 applies to an approval given because of a decision under subsection (2) as if the approval were an approval in force immediately before the commencement.

#### **153      Approvals for works issued under the repealed Act continue**

An approval given under the repealed Act to carry out plumbing or drainage work and in force immediately before the commencement of this section is taken to be a compliance permit given under part 4.

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

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

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

A notice given under the repealed Act to perform plumbing or drainage work and in force immediately before the commencement of this section must be dealt with as if the repealed Act had not been repealed.

## **Division 4                      Transitional provisions about on-site sewerage facilities**

### **156      Existing applications continue**

- (1) An application made under the repealed Act and not decided before the commencement of this section is taken to be an application made under this Act.
- (2) In this section—

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

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

### **157      Existing approvals continue**

- (1) An approval under the repealed Act, in force immediately before the commencement of this section, continues in force to the greatest practicable extent as an approval under this Act, until the approval would have expired under the repealed Act.
- (2) In this section—

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

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

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

**158 Notices issued under the repealed Act continue under this Act**

- (1) A notice given under the repealed Act to build, change, dismantle, install, repair or take away all or part of an on-site sewerage facility and not complied with before the commencement of this section is taken to be a notice given under this Act for the same purpose.
- (2) However, for an offence of not complying with the notice, the penalty is the penalty that applied for the offence under the repealed Act.

**Division 5**

**Miscellaneous transitional provisions**

## Schedule                      Dictionary

### section 3

***appropriately qualified***, for a person to whom a power under this Act may be delegated, includes having the qualifications or experience appropriate to exercise the power.

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

***AS/NZS 1546*** means AS/NZS 1546.1:1998, On-site domestic wastewater treatment units—Part 1: Septic tanks, as in force from time to time.

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

***board*** means the Plumbing and Drainage Board established under section 5.

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

***built item*** means—

- (a) an on-site sewage treatment plant that is wholly built on the premises where it is, or is to be, used; or
- (b) an element of an on-site sewage treatment plant, if the element is wholly built on the premises where the plant is, or is to be, used.

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

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

***compliance assessment*** means assessment under part 4.

***compliance certificate*** see section 79.

***compliance permit*** see section 78.

## Schedule (continued)

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

**deputy member** means a deputy member appointed under section 10.

**drainage** means an apparatus, fitting or pipe, either above or below ground level, that carries sewage to a sewer or to or from an on-site sewerage facility.

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

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

**foreign licensing authority** means—

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

**information notice** means—

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

**Schedule (continued)**

- board within 10 business days after receiving the notice;
- (viii) if the decision is that the conditions imposed on a licence be confirmed—the review period applying to the confirmed conditions;
  - (ix) if the decision is that the conditions imposed on a licence be changed—
    - (A) the review period applying to the changed conditions; and
    - (B) a direction to the licensee to return the licence to the board within 10 business days after receiving the notice; or
- (b) for a decision of a local government under section 85 or 86, a notice stating the following—
- (i) the decision;
  - (ii) the reasons for the decision;
  - (iii) that the person to whom the notice is given may appeal against the decision to a building and development tribunal within 20 business days;
  - (iv) how the person may appeal against the decision; or
- (c) for a decision of the chief executive or a local government under part 5, a notice stating the following—
- (i) the decision;
  - (ii) the reasons for the decision;
  - (iii) that the person to whom the notice is given may apply for a review of the decision within 20 business days;
  - (iv) how the person may apply for a review.

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

## Schedule (continued)

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

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

***licence*** means a licence in force under part 3.

***member*** means a member of the board.

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

***model approval*** see section 93.

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

***on-site facility conditions*** see section 96(3) or 100(3).

***on-site sewage treatment plant*** is a sewage treatment plant installed or to be installed on premises as part of an on-site sewerage facility for the premises.

***on-site sewerage code*** means the code of practice for on-site sewerage facilities as at the commencement of part 5.<sup>17</sup>

***on-site sewerage facility*** means a facility installed on premises for—

- (a) treating, on the premises, sewage generated on the premises, and disposing of the resulting effluent—
  - (i) on the premises; or
  - (ii) off the premises by—
    - (A) common effluent drainage; or
    - (B) collection from a tank on the premises; or

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<sup>17</sup> The On-Site Sewerage Code may be inspected at the department's office at 41 George Street, Brisbane or on the department's website at <[www.nrm.qld.gov.au](http://www.nrm.qld.gov.au)>.



## Schedule (continued)

- (b) storing on the premises sewage generated on the premises for its subsequent disposal off the premises by collection from the premises.

**original decision** see—

- (a) for part 7, division 1—section 129(1); or
- (b) for part 7, division 2—section 132(1).

**owner** means—

- (a) for premises comprising a building or structure—the owner of the building or structure within the meaning of the *Building Act 1975*, section 3(1); or
- (b) for other premises—the person for the time being entitled to receive the rent for the premises or who would be entitled to receive the rent for the premises if the premises were let to a tenant for rent.

**plan** includes any supporting documentation for the plan.

**plumbing** means—

- (a) for water—an apparatus, fitting or pipe for carrying water within premises; or
- (b) for sewage—an apparatus, fitting, fixture or pipe, above ground level, that carries sewage on premises to drainage.

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

**prefabricated item** means—

- (a) a wholly prefabricated on-site sewage treatment plant; or
- (b) a prefabricated element of an on-site sewage treatment plant.

**prohibited substance** means—

- (a) a solid or viscous substance in a quantity, or of a size, that can obstruct, or interfere with the operation of, an on-site sewerage facility; or

**Schedule (continued)**

*Examples for paragraph (a)—*

- ash, cinders, sand, mud, straw and shavings
  - metal, glass and plastics
  - paper and plastic dishes, cups and milk containers
  - rags, feathers, tar and wood
  - whole blood, paunch manure, hair and entrails
  - oil and grease
  - cement laden waste water, including, wash down from exposed aggregate concrete surfaces.
- (b) a flammable or explosive solid, liquid or gaseous substance; or
- (c) floodwater, rainwater and stormwater, and roof water, seepage water, subsoil water and surface water; or
- (d) a substance that, given its quantity, is capable alone, or by interaction with another substance discharged into an on-site sewerage facility, of—
- (i) inhibiting or interfering with a sewage treatment process; or
  - (ii) causing damage or a hazard to an on-site sewerage facility; or
  - (iii) causing a hazard for humans or animals; or
  - (iv) creating a public nuisance; or
  - (v) creating a hazard in waters into which it is discharged; or
  - (vi) contaminating the environment in places where effluent or sludge from a sewage treatment plant is discharged or reused; or

*Example paragraph (d)—*

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

## Schedule (continued)

- (e) a substance having a temperature of more than—
- (i) if the local government has approved a maximum temperature for the substance—the approved maximum temperature; or
  - (ii) if paragraph (a) does not apply—38°C.

**public sector entity**—

1 *Public sector entity* means—

- (a) a department or part of a department; or
- (b) an agency, authority, commission, corporation, instrumentality, office, or other entity, established under an Act for a public or State purpose.

2 The term includes a government owned corporation.

**register** means the register kept under section 77.

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

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

**review decision** see section 133(2).

**review notice** see section 133(3).

**review period**, applying to conditions imposed by the board or the Commercial and Consumer Tribunal on a licence, means the period of not more than 2 years after the decision to impose the conditions takes effect within which the licensee may not apply for a review of the conditions under part 3, division 6.

**sanitary drain** means a drain (not including a pipe that is a part of common effluent drainage) that is immediately connected to, and used to carry discharges from, a soil or waste pipe for an individual premises.

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

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

## Schedule (continued)

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

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

***sewerage system*** means infrastructure used to receive, transport and treat sewage or effluent, including, for example, sewers, access chambers, vents, engines, pumps, structures, machinery and outfalls.

***show cause notice*** for—

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

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

***stormwater installation***, for premises, means roof gutters, downpipes, subsoil drains and stormwater drainage for the premises, but does not include any part of a local government's stormwater drainage.

***trade*** means the trade of plumbing and draining.

***type specification approval*** see section 94.

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

## Endnotes

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 29 November 2004. Future amendments of the Plumbing and Drainage Act 2002 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

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

### 4 Table of reprints

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

### 5 Tables in earlier reprints

Name of table	Reprint No.
Corrected minor errors	1

### 6 List of legislation

#### **Plumbing and Drainage Act 2002 No. 77**

date of assent 13 December 2002

ss 1–2, pt 15 commenced on date of assent

remaining provisions commenced 1 November 2003 (2003 SL No. 264)

amending legislation—

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

date of assent 23 May 2003

ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 July 2003 (see s 2)

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

date of assent 16 October 2003  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced on date of assent (see s 2(3)(e))

**Statute Law (Miscellaneous Provisions) Act 2004 No. 53**

date of assent 29 November 2004  
 commenced on date of assent

## **7 List of annotations**

**How licensee may start review**

s 55 amd 2003 No. 30 s 169 sch 1

**Process for assessing certain regulated work in remote areas**

s 86A ins 2003 No. 64 s 133

**Minor work**

s 87 amd 2003 No. 64 s 134

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

s 90 amd 2003 No. 64 s 135

**Applying for a review**

s 129 amd 2003 No. 30 s 169 sch 1

**Review of decision**

s 130 amd 2003 No. 30 s 169 sch 1

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

prov hdg amd 2003 No. 30 s 169 sch 1

s 131 amd 2003 No. 30 s 169 sch 1

**Regulation-making power**

s 145 amd 2004 No. 53 s 2 sch

**Transitional regulation-making power**

s 159 exp 1 November 2004 (see s 159(4))

**PART 11—AMENDMENT OF BUILDING ACT 1975**

pt 11 (ss 160–191) om R1 (see RA s 40)

**PART 12—AMENDMENT OF INTEGRATED PLANNING ACT 1997**

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

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

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

**PART 14—AMENDMENT OF LOCAL GOVERNMENT ACT 1993****pt 14 (ss 225–240)** om R1 (see RA s 40)**PART 15—AMENDMENT OF WATER ACT 2000****pt 15 (ss 241–250)** om R1 (see RA s 40)**SCHEDULE—DICTIONARY**def “**review period**” amd 2003 No. 30 s 169 sch 1

## **8 List of forms notified or published in the gazette**

(The following information about forms is taken from the gazette. Because failure to notify or publish a form in the gazette does not invalidate the form, it may be necessary to check with the relevant government department for the latest information about forms (see SIA s 58(8)).)

**Form 1 Version 1—Application for Compliance Assessment**

pubd gaz 31 October 2003 p 689

**Form 2 Version 1—Proposed Plumbing and Drainage Work**

pubd gaz 31 October 2003 p 689

**Form 3 Version 1—Verification of Covered Work**

pubd gaz 31 October 2003 p 689

**Form 4 Version 1—Notifiable Minor Work**

pubd gaz 31 October 2003 p 689

**Form 5 Version 1—Application for Compliance Assessment—Remote Area**

pubd gaz 31 October 2003 p 689

**Form 6 Version 1—Notice of Compliance—Remote Area**

pubd gaz 31 October 2003 p 689

**Form 7 Version 1—Notification of Responsible Person**

pubd gaz 31 October 2003 p 689

**Form 21 Version 2—Application for a Licence**

pubd gaz 8 October 2004 p 473

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

pubd gaz 8 October 2004 p 473

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

pubd gaz 31 October 2003 p 689

**Form 24 Version 1—Application for Replacement of a Licence**

pubd gaz 31 October 2003 p 689