



# Plumbing and Drainage Act 2002

**Current as at 10 November 2014—revised version**

## **Reprint note**

Part 2, division 2, subdivisions 2–4 were incorrectly omitted from an earlier version of this reprint due to an incorrect code that set the status of the provisions as repealed.

This version was corrected on 2 August 2018.

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Queensland

# Plumbing and Drainage Act 2002

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# Plumbing and Drainage Act 2002

**An Act about plumbing and drainage, the licensing of plumbers and drainers, 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                      Role of QBCC—plumbing and drainage**

### **Division 1                QBCC's functions**

#### **5                      Plumbing and drainage functions performed by QBC board**

The functions of the QBC board for plumbing and drainage include—

- (a) conferring on national policy development and implementation for the trade; and
- (b) reporting to the Minister on—
  - (i) any issue relating to plumbing and drainage referred to it by the Minister; or
  - (ii) any issue relating to plumbing and drainage the board considers the Minister should know about; and
- (c) performing any other functions relating to plumbing and drainage given to the board under this Act.

#### **6                      Plumbing and drainage functions performed by QBCC commissioner**

The functions of the QBCC commissioner for plumbing and drainage include the following—

- (a) administering the licensing system under part 3;
- (b) monitoring the operation of the licensing system and, if necessary, recommending changes;
- (c) promoting acceptable standards of competence for the trade;
- (d) receiving and investigating complaints about work for which a licence is required;

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- (e) approving audit programs and auditing licensees to monitor and enforce compliance with part 4;
  - (f) performing any other functions relating to plumbing and drainage given to the QBCC commissioner under this Act.

*Note—*

For powers of the QBCC commissioner, see the QBCC Act, section 20J(3).

## **Division 2                    Investigators appointed by QBCC commissioner**

### **Subdivision 1            Investigators**

#### **33A    Appointment**

- (1) The QBCC commissioner may appoint a relevant officer as an investigator if the commissioner is satisfied the officer is qualified for appointment because the officer has the necessary expertise or experience.
- (2) In this section—

*employing office* see the QBCC Act, section 29A.

*relevant officer* means—

- (a) an employee of the employing office or of another government entity performing work for QBCC under a work performance arrangement; or
- (b) an officer or employee of QBCC.

#### **33B    Function**

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

### **33C Appointment conditions and limit on powers**

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

### **33D Issue of identity card**

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

### **33E Production or display of identity card**

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



- (2) However, if it is not practicable to comply with subsection (1), the investigator must produce the identity card for the person's inspection at the first reasonable opportunity.
- (3) For subsection (1), an investigator does not exercise a power in relation to a person only because the investigator has entered a place as mentioned in section 33I(1)(b) or (2).

### **33F When investigator ceases to hold office**

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

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

### **33G Resignation**

An investigator may resign by signed notice given to the QBCC commissioner.

### **33H Return of identity card**

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

Maximum penalty—25 penalty units.

## **Subdivision 2      Entry to places**

### **33I      Power to enter places**

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

### **33J      Entry with consent**

- (1) This section applies if an investigator intends to ask an occupier of a place to consent to the investigator or another investigator entering the place under section 33I(1)(a).
- (2) Before asking for the consent, the investigator must tell the occupier—
  - (a) the purpose of the entry; and
  - (b) that the occupier is not required to consent.
- (3) If the consent is given, the investigator may ask the occupier to sign an acknowledgement of the consent.
- (4) The acknowledgement must state—
  - (a) the occupier has been told—
    - (i) the purpose of the entry; and
    - (ii) that the occupier is not required to consent; and

- (b) the purpose of the entry; and
  - (c) the occupier gives the investigator consent to enter the place and exercise powers under this part; and
  - (d) the time and date the consent was given.
- (5) If the occupier signs the acknowledgement, the investigator must immediately give a copy to the occupier.
- (6) If—
- (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
  - (b) an acknowledgement complying with subsection (4) for the entry is not produced in evidence;

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

### **33K Application for warrant**

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

*Example for subsection (4)—*

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

### **33L Issue of warrant**

- (1) The magistrate may issue the warrant for the place only if the magistrate is satisfied there are reasonable grounds for suspecting—

- (a) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against this Act; and
  - (b) the evidence is at the place or, within the next 7 days, will be at the place.
- (2) The warrant must state—
- (a) the place to which the warrant applies; and
  - (b) that a stated investigator may, with necessary and reasonable help and force—
    - (i) enter the place and any other place necessary for entry to the place; and
    - (ii) exercise the investigator’s powers under this part; and
  - (c) particulars of the offence that the magistrate considers appropriate in the circumstances; and
  - (d) the name of the person suspected of having committed the offence, unless the name is unknown or the magistrate considers it inappropriate to state the name; and
  - (e) the hours of the day or night when the place may be entered; and
  - (f) the magistrate’s name; and
  - (g) the date and time of the warrant’s issue; and
  - (h) the date, within 14 days after the warrant’s issue, the warrant ends.

### **33M Application by electronic communication and duplicate warrant**

- (1) An application under section 33K may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the investigator considers it necessary because of—
- (a) urgent circumstances; or

- (b) other special circumstances, including, for example, the investigator's remote location.
- (2) The application—
- (a) may not be made before the investigator prepares the written application under section 33K(2); but
  - (b) may be made before the written application is sworn.
- (3) The magistrate may issue the warrant (the *original warrant*) only if the magistrate is satisfied—
- (a) it was necessary to make the application under subsection (1); and
  - (b) the way the application was made under subsection (1) was appropriate.
- (4) After the magistrate issues the original warrant—
- (a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the investigator, for example, by sending a copy by fax or email—the magistrate must immediately give a copy of the warrant to the investigator; or
  - (b) otherwise—
    - (i) the magistrate must tell the investigator the date and time the warrant is issued and the other terms of the warrant; and
    - (ii) the investigator must complete a form of warrant, including by writing on it—
      - (A) the magistrate's name; and
      - (B) the date and time the magistrate issued the warrant; and
      - (C) the other terms of the warrant.
- (5) The copy of the warrant mentioned in subsection (4)(a), or the form of warrant completed under subsection (4)(b) (in either case the *duplicate warrant*) is a duplicate of, and as effectual as, the original warrant.

- (6) The investigator must, at the first reasonable opportunity, send to the magistrate—
  - (a) the written application complying with 33K(2) and (3); and
  - (b) if the investigator completed a form of warrant under subsection (4)(b)—the completed form of warrant.
- (7) The magistrate must keep the original warrant and, on receiving the documents under subsection (6)—
  - (a) attach the documents to the original warrant; and
  - (b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.
- (8) Despite subsection (5), if—
  - (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and
  - (b) the original warrant is not produced in evidence;the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.
- (9) This section does limit section 33K.
- (10) In this section—

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

### **33N Defect in relation to a warrant**

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

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

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### **33O Warrants—procedure before entry**

- (1) This section applies if an investigator named in a warrant issued under this part for a place is intending to enter the place under the warrant.
- (2) Before entering the place, the investigator must do, or make a reasonable attempt to do, the following things—
  - (a) identify himself or herself to a person present at the place who is an occupier of the place by producing a copy of the investigator's identity card, or having the identity card displayed, as mentioned in section 33E(1);
  - (b) give the person a copy of the warrant;
  - (c) tell the person the investigator is permitted by the warrant to enter the place;
  - (d) give the person an opportunity to allow the investigator immediate entry to the place without using force.
- (3) However, the investigator need not comply with subsection (2) if the investigator believes that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.
- (4) In this section—  
*warrant* includes a duplicate warrant mentioned in section 33M(5).

## **Subdivision 3 Powers of investigators**

### **33P General powers of investigator after entering places**

- (1) This division applies to an investigator who enters a place under section 33I(1).
- (2) For performing the investigator's function under this Act, the investigator may do any of the following—
  - (a) search any part of the place;

[s 33Q]

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- (b) inspect, measure, test, photograph or film any part of the place or anything at the place;
- (c) copy, or take an extract from, a document at the place;
- (d) take into or onto the place any person, equipment and materials the investigator reasonably requires for exercising a power under paragraphs (a) to (c).

### **33Q Power to require reasonable help or information**

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

Maximum penalty—40 penalty units.

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

### **33R Power to require name and address**

- (1) This section applies if—
  - (a) the investigator finds a person committing an offence against this Act; or
  - (b) the investigator finds a person in circumstances that lead, or has information that leads, the investigator to reasonably believe the person has just committed an offence against this Act.



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- (2) The investigator may require the person to state the person's name and residential address.
  - (3) When making the requirement, the investigator must warn the person it is an offence to fail to state the person's name or residential address unless the person has a reasonable excuse.
  - (4) The investigator may also require the person to give evidence of the correctness of the stated name or required address if, in the circumstances, it would be reasonable to expect the person to—
    - (a) be in possession of evidence of the correctness of the stated name or address; or
    - (b) otherwise be able to give the evidence.

### **33S Power to require production of documents**

- (1) The investigator may require a person to make available for inspection by an investigator, or produce to the investigator for inspection, at a reasonable time and place nominated by the investigator, a document given to the person under this Act.
- (2) The investigator may ask the person to give the investigator a copy of the document within a reasonable period.
- (3) If a request under subsection (2) is not complied with within a reasonable period, the investigator may take the document to copy it.
- (4) The investigator must return the document to the person as soon as practicable after copying it.

### **33T Failure to state name and address or produce document**

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

Maximum penalty—40 penalty units.

[s 33TA]

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

### **Subdivision 3A    Audit programs and auditing licensees**

#### **33TA    Definitions for sdiv 3A**

In this subdivision—

*approved audit program* means an audit program approved by the QBCC commissioner under section 33TB.

*employed licensee* see section 33TD(1)(c).

*relevant person* see section 33TD(1)(c).

#### **33TB    Approved audit program**

- (1) The QBCC commissioner may prepare and approve an audit program under which the commissioner may audit licensees to find out if they have been complying with part 4.
- (2) The approved audit program must state all of the following—
  - (a) the purpose of the program;
  - (b) when the program starts;
  - (c) the period over which the program is to be carried out;
  - (d) criteria for selecting licensees who are to be the subject of audit;
  - (e) if the licensees to be audited are to be selected from licensees holding licences of a particular class—a description of the class;
  - (f) how licensees selected for audit under the program will be advised that they have been selected.

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- (3) The commissioner must ensure a copy of the approved audit program is available for inspection at QBCC's head office.

*Editor's note—*

QBCC's head office is located at 299 Montague Road, West End, Brisbane.

### **33TC Notice of approved audit program**

- (1) The QBCC commissioner must publish notice of an approved audit program on QBCC's website.
- (2) The notice must be published before the approved audit program starts.
- (3) The notice must state all of the following—
- (a) the purpose of the approved audit program;
  - (b) when the program starts;
  - (c) the period over which the program is to be carried out;
  - (d) the criteria for selecting licensees who are to be the subject of audit;
  - (e) if the licensees to be audited are to be selected from licensees holding licences of a particular class—a description of the class;
  - (f) how licensees selected for audit under the program will be advised that they have been selected;
  - (g) the obligations to be complied with by licensees selected for audit under the program.
- (4) The commissioner must ensure notice of the approved audit program is kept on QBCC's website during the period over which the program is to be carried out.

### **33TD Supply of documents or information**

- (1) This section applies to each of the following—
- (a) a licensee selected to be audited under an approved audit program;

[s 33TD]

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- (b) if the QBCC commissioner is satisfied, because of information received by the commissioner, that there are reasonable grounds for concern that a licensee is not, or has not been, complying with part 4—the licensee;
  - (c) a person (a *relevant person*) who—
    - (i) conducts a business for carrying out plumbing work or drainage work; and
    - (ii) employs a licensee (an *employed licensee*) to whom paragraph (a) or (b) applies to carry out the work.
- (2) The commissioner or an investigator may give written notice to the licensee or relevant person requiring the licensee or person to give the commissioner or investigator copies of, access to, or information about the documents described in the notice.
- (3) The notice must describe only the documents the commissioner or investigator reasonably requires to decide whether any of the following are, or have been, complying with part 4—
- (a) if the notice is given to a licensee—the licensee;
  - (b) otherwise—an employed licensee.

*Examples of documents for subsection (3)—*

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

- (4) Also, the notice must state that—
- (a) the licensee or person must comply with the notice even though complying might tend to incriminate the licensee, person or an employed licensee, or expose the licensee, person or employed licensee to a penalty; and
  - (b) under section 33TF, there is a limited immunity against the future use of the information or document given in compliance with the notice.
- (5) In this section—

*employ* includes engage on a contract for services or commission, whether or not for reward.

### **33TE Offence to contravene notice**

- (1) A licensee or relevant person who receives a notice under section 33TD must comply with the notice within 10 business days after receiving it, unless the licensee or person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) It is not a reasonable excuse for a licensee or relevant person to fail to comply with the notice on the basis that complying might tend to incriminate the licensee, person or an employed licensee, or expose the licensee, person or employed licensee to a penalty.

### **33TF Evidential immunity for licensees and other persons**

- (1) Subsection (3) applies to a licensee if, under section 33TE—
  - (a) the licensee gives the QBCC commissioner or an investigator copies of, access to, or information about a document; or
  - (b) a relevant person gives the commissioner or an investigator copies of, access to, or information about a document relating to the licensee.
- (2) Also, subsection (3) applies to a relevant person who is an individual if, under section 33TE, the person gives the commissioner or an investigator copies of, access to, or information about a document.
- (3) Evidence of the information or document, and other evidence directly or indirectly derived from the information or document, is not admissible against the licensee or relevant person in any proceeding to the extent it tends to incriminate the licensee or person, or expose the licensee or person to a penalty, in the proceeding.
- (4) Subsection (3) does not apply to—

[s 33U]

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- (a) a proceeding about the false or misleading nature of the information or anything in the document or in which the false or misleading nature of the information or document is relevant evidence; or
- (b) a disciplinary proceeding against the licensee under part 3; or
- (c) a proceeding against the licensee for an offence under part 4.

## Subdivision 4 Miscellaneous provisions

### 33U Notice of damage

- (1) This section applies if—
  - (a) an investigator damages property when exercising or purporting to exercise a power; or
  - (b) a person (the *other person*) acting under the direction of an investigator damages property.
- (2) The investigator must, as soon as practicable, give written notice of particulars of the damage to a person who appears to the investigator to be an owner of the property.
- (3) If the investigator believes the damage was caused by a latent defect in the property or circumstances beyond the investigator's or other person's control, the investigator may state the belief in the notice.
- (4) If, for any reason, it is impracticable to comply with subsection (2), the investigator must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.
- (5) This section does not apply to damage the investigator reasonably believes is trivial.
- (6) In this section—

*owner*, of property, includes the person in possession or control of it.

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### **33V Compensation**

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

### **33W Obligation to keep record of notices under s 87**

- (1) The QBCC commissioner must keep a record of each notice given to it under section 87 until—
  - (a) if the notice relates to a class 2 to 9 building under the Building Code of Australia—the building is demolished or removed; or
  - (b) if the notice relates to a class 1 or 10 building under the Building Code of Australia—the earlier of the following—
    - (i) the building is demolished or removed;
    - (ii) the day that is 10 years after the notice was received by the commissioner.
- (2) The commissioner must, while it is required to keep a record of the notice, give a local government access to the record and allow the local government to copy the record.

## **Division 3                    Other provisions**

### **33X    Fees payable to QBCC**

- (1) Fees payable under this Act must be paid to QBCC unless a regulation provides otherwise.
- (2) The following must be applied toward the administration of this Act, including monitoring and enforcing compliance with this Act—
  - (a) revenue received under subsection (1);
  - (b) a monetary penalty recovered for an offence and paid to QBCC.
- (3) Funds that are not immediately required for the administration of this Act may be applied to the objects and purposes appearing to the QBCC commissioner to advance the principles, standards or trade of plumbing and drainage.

## **Part 3                            Licensing**

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

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

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



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### **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 QBCC commissioner; 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 QBCC commissioner 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 QBCC commissioner 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 QBCC commissioner 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 commissioner, within a reasonable time of at least 20 business days stated in the notice, further information or a document the commissioner 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 commissioner 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

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- (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 commissioner receives the application.

### 39 Further consideration of application

- (1) This section applies if the QBCC commissioner 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 QBCC commissioner to obtain and consider information about the applicant from a foreign licensing authority

- (2) The commissioner 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 commissioner needs further time to decide the application; and
- (b) the period within which the commissioner 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 commissioner 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 commissioner 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 commissioner has, under section 38(1)(b), required the applicant to give the commissioner further information or a document—the day that is 40 business days after the commissioner receives the further information or document.

#### **40 Decision on application for licence**

(1) The QBCC commissioner 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 commissioner may act under subsection (1)(b) only if—

- (a) the applicant has not had an interstate or New Zealand licence suspended or cancelled; and
- (b) at least 1 of the following applies—
  - (i) the commissioner reasonably considers the applicant needs more practical experience before being licensed;
  - (ii) the commissioner reasonably considers the applicant does not have the qualifications required under section 37(a), but does have enough practical experience to be able to perform work under the provisional licence;
  - (iii) the commissioner reasonably considers the applicant holds a relevant corresponding licence;

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- (iv) the commissioner reasonably considers the applicant has the qualifications and experience required under section 37(a), but evidence of them has not been given to the commissioner.
- (3) However, subsection (2)(a) does not apply if the applicant holds an interstate or New Zealand licence that is in force.
- (4) In this section—
- relevant corresponding licence* means any of the following—
- (a) an interstate or New Zealand licence;
  - (b) a licence, however called, issued in another country, that allows the applicant to perform part of the work to which the licence application relates.

#### **41 Imposing conditions on licence**

- (1) The QBCC commissioner may issue a licence, including a provisional licence, on conditions the commissioner considers necessary or desirable for the licensee to competently practise the trade.
- (2) The commissioner 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 QBCC commissioner 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 commissioner 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.

*Note—*

For reviews of the decision, see the QBCC Act, part 7, division 3.

- (3) If the commissioner refuses to license the applicant or the applicant withdraws the application, the commissioner must refund to the applicant the application fee paid, less the amount of the cost to the commissioner of processing the application.

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

- (1) Subject to subsections (2) and (3), if the QBCC commissioner fails to decide the application within 40 business days after its receipt, the failure is taken to be a decision by the commissioner to refuse to license the applicant.
- (2) Subsection (3) applies if the commissioner has—
  - (a) under section 38(1)(b), required the applicant to give the commissioner further information or a document; or
  - (b) under section 38(1)(c), required the applicant to undergo an examination.
- (3) The commissioner 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 commissioner receives the further information or document;
  - (b) the day that is 40 business days after the commissioner 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 QBCC commissioner may upgrade provisional licence**

- (1) Subsection (2) applies if—
  - (a) an individual applied for a licence; and
  - (b) the QBCC commissioner 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 commissioner about a matter that caused the commissioner to give the provisional licence rather than the licence.
- (2) The commissioner 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 QBCC commissioner 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 QBCC commissioner 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 commissioner 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 commissioner 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.



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**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 QBCC commissioner 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 commissioner 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 QBCC commissioner 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 QBCC commissioner 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 QBCC commissioner 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 QBCC commissioner 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 QCAT for a review of the conditions—while the decision to impose the conditions is being reviewed by QCAT.

- (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 commissioner 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 QBCC commissioner reasonably believes the conditions may no longer be appropriate.
- (2) The commissioner may, with the written agreement of the licensee, review the conditions.

## **57 QBCC commissioner's powers before making decision**

- (1) Before making its decision under section 59, the QBCC commissioner—
  - (a) may investigate the licensee; and
  - (b) may, by notice given to the licensee, require the licensee to give the commissioner, within a reasonable time of at least 20 business days stated in the notice, further information or a document the commissioner 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 commissioner agrees with the licensee to review the conditions.

- (3) The commissioner 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 QBCC commissioner receives the application.
- (4) Subsection (5) applies if the conditions are being reviewed under section 56.
- (5) The commissioner 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 QBCC commissioner must decide to—
  - (a) confirm the conditions; or
  - (b) remove the conditions; or
  - (c) change the conditions.
- (2) In making its decision, the commissioner must consider whether the conditions remain necessary or desirable for the licensee to competently practise the trade.
- (3) If the commissioner 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 commissioner 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.

*Note—*

For reviews of the decision, see the QBCC Act, part 7, division 3.

- (5) If the commissioner 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 QBCC commissioner decides to confirm the conditions, the decision takes effect when it is made.
- (2) If the commissioner 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 commissioner 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 QBCC commissioner to make decision on application**

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

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

- (1) Subject to subsections (2) and (3), if the QBCC commissioner fails to make a decision on a review agreed to under section 56 within 40 business days after the agreement, the failure is taken to be a decision by the commissioner to confirm the conditions.
- (2) Subsection (3) applies if the commissioner has, under section 57(1)(b), required the licensee to give the commissioner further information or a document.
- (3) The commissioner is taken to have decided to confirm the conditions if the commissioner fails to make a decision on the review within 40 business days after the day the commissioner 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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- (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 QBCC commissioner within 10 business days after receiving the notice.

Maximum penalty—10 penalty units.

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

## **Division 7                      Disciplinary action**

### **Subdivision 1                Grounds**

#### **64                      Grounds for discipline**

Subject to section 70A, the QBCC commissioner may take disciplinary action against a licensee if the commissioner is satisfied the licensee has—

- (a) obtained the licensee's licence because of a materially false or misleading representation or declaration; or
- (b) not competently performed, or has been involved in the unsatisfactory performance of, work the licensee is authorised to carry out under the licensee's licence; or
- (c) directed or allowed another licensee to perform work—
  - (i) the other licensee is authorised to carry out under his or her licence; and
  - (ii) in a way that does not conform with the appropriate standards; or

- (d) directed or allowed a person to perform work in contravention of section 119; or
- (e) directed someone else to perform work, or supervised someone else in the performance of work, in contravention of section 120; or
- (f) performed work—
  - (i) that is not work for which the licensee’s licence was issued; and
  - (ii) for which a licence is required; or
- (g) not given a local government or the commissioner a notice or document as required under this Act; or
- (h) had the licensee’s interstate or New Zealand licence conditioned, suspended or cancelled; or
- (i) been convicted of an offence against this Act or the repealed Act.

## **Subdivision 2      Action by QBCC commissioner about disciplinary matters**

### **65      Disciplinary action that may be taken by QBCC commissioner**

- (1) In disciplining a licensee, after complying with section 66(1) the QBCC commissioner may do any 1 or more of the following—
  - (a) reprimand the licensee;
  - (b) for plumbing or drainage work—order that the work be rectified to comply with the Standard Plumbing and Drainage Regulation;
  - (c) impose new conditions, or change conditions, on the licence;
  - (d) suspend the licensee’s licence for a period of not more than 12 months;



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- (e) require the licensee to pay to the commissioner, within a reasonable stated period, a stated amount of not more than the equivalent of 60 penalty units.
  - (2) Subsection (3) applies if a licensee does not, within the stated period under subsection (1)(e), pay the commissioner the amount required to be paid under the subsection.
  - (3) The commissioner may recover the unpaid part of the amount from the licensee as a debt.

## 66 Show cause notice

- (1) If the QBCC commissioner believes a ground exists to act under section 65 or to refer a disciplinary matter to QCAT under section 70A, the commissioner must, before taking the action or making a referral under section 70A in relation to the matter, 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(1) or refer the matter to QCAT under section 70A; 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 or the referral should not be made.
- (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 QBCC commissioner in the show cause period.
- (2) If the commissioner is satisfied the licensee may be disadvantaged if the licensee does not make personal representations to the commissioner, the commissioner may

allow the licensee to make personal representations about the show cause notice to the commissioner in the show cause period.

- (3) The commissioner must consider all representations (the *accepted representations*) made under subsection (1) or (2).

## **68 QBCC commissioner must decide action to be taken**

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

- (a) take no further action about the matter; or
- (b) take disciplinary action against the licensee; or
- (c) if section 70A applies, refer the disciplinary matter to QCAT.

## **69 QBCC commissioner must advise licensee of its decision**

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

*Note—*

For reviews of the decision, see the QBCC Act, part 7, division 3.

## **70 When suspension takes effect**

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

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## Subdivision 3 Referral to QCAT of particular proposed suspensions or proposed cancellations

### 70A QBCC commissioner to refer particular disciplinary matters to QCAT

- (1) This section applies if, after complying with section 66(1), the QBCC commissioner is reasonably satisfied, for a licensee, that—
  - (a) a ground exists to act under section 65; and
  - (b) it would be reasonable in the circumstances to take the following disciplinary action—
    - (i) suspend the licensee’s licence for more than 12 months;
    - (ii) cancel the licensee’s licence.
- (2) The commissioner must refer the matter, as provided under the QCAT Act, to QCAT to decide whether or not to make an order against the licensee in relation to the ground.

### 70B Constitution of QCAT

- (1) For the referred matter QCAT must be constituted by 3 members.
- (2) The members must include—
  - (a) 1 legally qualified member; and
  - (b) 1 QCAT member who has at least 10 years experience in the plumbing and drainage industry.
- (3) In this section—

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

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

## **70C Disciplinary orders by QCAT**

If, after hearing the matter, QCAT decides a ground for disciplinary action against a licensee is established, it may do 1 or more of the following—

- (a) reprimand the licensee;
- (b) for plumbing or drainage work—order that the work be rectified to comply 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 QCAT;
- (e) cancel the licensee’s licence;
- (f) order the licensee to pay to the QBCC commissioner a stated amount of not more than the equivalent of 165 penalty units.

## **Subdivision 4 Miscellaneous**

### **71 Returning suspended or cancelled licence to QBCC commissioner**

- (1) If the QBCC commissioner or QCAT suspends or cancels a licence, the licensee or former licensee must return the licence to the commissioner 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 commissioner must return the licence to the licensee as soon as practicable after the suspension period.

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

### **72        Surrendering licence**

- (1) A licensee may surrender the licensee's licence by notice given to the QBCC commissioner.
- (2) The surrender takes effect—
  - (a) on the day the notice is given to the commissioner; 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 commissioner 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 QBCC commissioner 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 commissioner; 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 commissioner is satisfied the licence has been lost, stolen or destroyed, or damaged, the commissioner 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 QBCC commissioner 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 QBCC commissioner 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 commissioner 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 QBCC commissioner must give notice about the event to each interstate or the New Zealand

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licensing authority with which the QBCC commissioner is aware the licensee is licensed.

- (3) Also, the commissioner 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 commissioner must not give a notice about the event to an entity under subsection (3) unless the commissioner reasonably believes the entity needs to know about the event.
- (5) A notice under this section may include the information the commissioner considers appropriate in the circumstances.

## **77 Register of licences**

The QBCC commissioner 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 compliance assessable 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 compliance assessable work starts while the compliance permit has effect, the permit continues to have effect.
- (4) A compliance permit attaches to the land, the subject of the permit, and binds the owner, the owner's successors in title and any occupier of the land.

## 79 Compliance certificate

- (1) A *compliance certificate* approves compliance assessable work to the extent stated in the certificate.
- (2) Subject to sections 86D(3) and 86E to 86G, a compliance certificate has effect until the premises to which certificate relates are demolished or removed.
- (3) A compliance certificate attaches to the land the subject of the certificate, and binds the owner, the owner's successors in title and any occupier of the land.

## 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 compliance assessable 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) compliance assessable work to be assessed for compliance with the Standard Plumbing and Drainage Regulation and a compliance certificate to be issued for the work.



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**81 Compliance assessable work must be assessed for compliance**

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

**81A When notifiable work must be assessed for compliance**

- (1) This section applies if—
  - (a) in relation to plumbing and drainage work—
    - (i) a compliance request made under division 3 is for compliance assessment of a plan for the work; or
    - (ii) a request made under division 4 is for compliance assessment of the work; and
  - (b) the work—
    - (i) includes notifiable work; or
    - (ii) is notifiable work only.
- (2) The notifiable work must be assessed for compliance with the Standard Plumbing and Drainage Regulation.
- (3) A reference in this Act to compliance assessable work is taken to include a reference to notifiable work that must be assessed for compliance because of this section.
- (4) Section 87 does not apply to notifiable work that must be assessed for compliance because of this section.

**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 compliance assessable work**

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

Maximum penalty—1665 penalty units.

- (2) Subsection (1) does not apply to compliance assessable work, other than compliance assessable work that is on-site sewerage 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 the resolution is available for inspection at the local government's public office under the *Local Government Act 2009* or, if the local government is the Brisbane City Council, its public office under the *City of Brisbane Act 2010*; and
  - (c) if the local government is a participating local government for a distributor-retailer—give a copy of it to the distributor-retailer.

**84 Compliance assessable work by a public sector entity**

- (1) This section applies to plans for compliance assessable work and compliance assessable 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.

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- (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) However, subsections (5) and (6) apply for the issuing by a public sector entity of a compliance permit or compliance certificate for a plan for SEQ water work.
  - (5) The entity can not issue the permit or certificate without the relevant service provider’s written consent.
  - (6) If the entity issues the permit or certificate, it must give a copy to—
    - (a) the local government; and
    - (b) if the relevant service provider for the work is a distributor-retailer—the distributor-retailer.

*Note—*

For references to a relevant service provider until 1 July 2012, see section 188.

## **Division 3                      Assessing plans**

### **85            Process for assessing plans**

- (1) This section applies, subject to sections 85B to 85E, to a request (a *compliance request*) for compliance assessment of a plan for compliance assessable work.
- (2) A compliance request must be—
  - (a) in the approved form; and
  - (b) made to the local government; and
  - (c) accompanied by the fee fixed by resolution of the local government; and
  - (d) if the request is about a plan for SEQ water work—accompanied by a document or information to show the

work has been approved by or for the relevant service provider.

*Examples of a document for paragraph (d)—*

- a development approval
  - an SEQ Water Act water approval
  - a Water Supply Act connection approval
- (3) The local government may give the person making the request, a written notice (an ***information request***), requesting further information needed to assess the plan.
- (4) An information request must be made within 10 business days after the plan is received.
- (5) The compliance request must be decided within 20 business days—
- (a) if an information request is not made—after receiving the compliance request; or
  - (b) if an information request is made—after receiving the information requested.
- (6) The local government must in deciding the compliance request—
- (a) give the person making the request a compliance permit; or
  - (b) refuse to give a compliance permit.
- (7) A compliance permit may be given on reasonable and relevant conditions decided by the local government for achieving compliance.

*Examples—*

- 1 A condition of a compliance permit for on-site sewerage work may require the owner of the relevant premises to install a grease arrester for the premises.
- 2 A condition of a compliance permit for compliance assessable work on premises that involves the installation of water meters may require the person carrying out the work to notify the water service provider for the premises that a particular stage of the work has been reached.

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- (7A) A local government can not give a compliance permit for SEQ water work unless it is the relevant service provider for the work or 1 of the following applies—
- (a) the work has been approved by the distributor-retailer who is the relevant service provider for the work;
- Examples of an approval for paragraph (a)—*
- a development approval
  - an SEQ Water Act water approval
  - a Water Supply Act connection approval
- (b) the local government has been advised by the distributor-retailer in writing that a compliance permit for the type of work may be given without the distributor-retailer’s approval.
- (7B) A distributor-retailer may give a participating local government a written advice for subsection (7A)(b) for stated types of connections, disconnections or changes to connections for the distributor-retailer’s water infrastructure.
- (8) If the local government gives a compliance permit, the local government must also give a copy of the permit to—
- (a) the owner of the premises to which the permit relates; and
- (b) if the permit is for a plan for work involving the installation of water meters on premises—the water service provider for the premises, if the water service provider is not the local government.
- (9) If the local government does not decide the compliance request within the time stated in subsection (5), the request is taken to have been refused.
- (10) If the local government refuses to give a compliance permit or gives a compliance permit on conditions, the local government must give the person who made the request an information notice about the decision.

*Note—*

For appeals against the decision, see the *Sustainable Planning Act 2009*, chapter 7, part 2, divisions 6, 8 and 9.

[s 85A]

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- (11) If an information request is made and the local government does not receive the information requested within the following period, the compliance request lapses—
  - (a) generally—1 year after the request was made;
  - (b) if, within the year, the local government agrees to a longer period—the longer period.
- (12) If the compliance request lapses under subsection (11), the fee that accompanied the application is not refundable.

#### **85A Participating local government to give documents or information to distributor-retailer**

- (1) A distributor-retailer may, by notice in writing to a participating local government for the distributor-retailer, advise the local government that it must give the distributor-retailer—
  - (a) a copy of a stated type of compliance permit for compliance assessable work given by the local government; or
  - (b) a copy of a stated type of compliance certificate, including plans of the assessed work for the certificate, for compliance assessable work assessed by the local government.
- (2) If a distributor-retailer gives a participating local government a notice under subsection (1), the local government must comply with the notice.

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

- (1) This section applies to a compliance request only to the extent it is for compliance assessable work for, or that includes, a greywater use facility in a sewered area.

*Note—*

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

- (2) A compliance permit may be granted for work only if—
  - (a) the premises at which the facility is proposed to be installed generates greywater of more than 3kL a day; and
  - (b) either—
    - (i) the facility’s greywater treatment plant has a chief executive approval; or
    - (ii) the facility’s greywater diversion device has plumbing code authorisation and certification; and
  - (c) the facility’s greywater treatment plant and greywater diversion device have a connection to sanitary drainage; and
  - (d) greywater can be diverted to sanitary drainage by a manual diversion device; and
  - (e) greywater automatically overflows to sanitary drainage if the facility’s filtering or irrigation system does not work or does not work properly.
- (3) In making the resolution or instrument or deciding an application for a compliance permit, the local government must consider any criteria prescribed under the Standard Plumbing and Drainage Regulation.

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

- (1) This section applies to a compliance request only to the extent it is for compliance assessable work for, or that includes, a greywater use facility not in a sewered area.
- (2) A compliance permit may be granted for the work only if—
  - (a) the facility complies with the Standard Plumbing and Drainage Regulation; and
  - (b) the local government is satisfied—

- (i) there is enough water available to the premises at which the facility is proposed to be installed to operate the facility; and
  - (ii) either—
    - (A) there is enough suitable land available as part of the premises to allow greywater from the facility to be used on the land; or
    - (B) a suitable alternative arrangement has been made for the use of the greywater; and
  - (c) either—
    - (i) the facility's greywater treatment plant has a chief executive approval; or
    - (ii) the facility's greywater diversion device has plumbing code authorisation and certification.
- (3) However, subsection (2)(c) does not apply if the facility is for testing purposes.

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

- (1) This section applies to a compliance request for on-site sewerage work other than work that is for, or includes, a greywater use facility.
- (2) A compliance permit may be granted for the on-site sewerage work only if—
  - (a) any of the following apply in relation to the work—
    - (i) the premises on which the on-site sewerage work is to be performed is outside a sewered area;
    - (ii) the on-site sewerage facility for which the on-site sewerage work is to be performed is required as part of common effluent drainage;
    - (iii) the on-site sewerage facility for which the on-site sewerage work is to be performed is to be installed



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- only for testing purposes, and the premises on which the work is to be performed is—
- (A) in a sewerred area in the SEQ region; and
  - (B) classified under the Building Code of Australia as a class 2, 5, 6 or 9b building; and
- (b) the local government is satisfied—
- (i) there is enough water available to the premises to operate the on-site sewerage facility; and
  - (ii) either—
    - (A) there is enough suitable land available as part of the premises to dispose of effluent from the on-site sewerage facility; or
    - (B) a suitable alternative arrangement has been made to dispose of the effluent; and
  - (iii) the on-site sewerage facility is otherwise appropriate for the premises; and
- (c) any item for the on-site sewerage work for which a chief executive approval is required under this Act complies with a chief executive approval; and
- (d) any septic tank for the on-site sewerage work complies with the Standard Plumbing and Drainage Regulation.
- (3) However, subsection (2)(c) and (d) does not apply if the on-site sewerage work is for testing purposes.

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

- (1) This section applies for assessing a compliance request for work for testing purposes.
- (2) The period of 10 business days under section 85(4) is changed to 20 business days.
- (3) Subsections (4) and (5) apply instead of section 85(5) and apply for the time mentioned in section 85(9).

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

## **Division 4                      Assessing compliance assessable work**

### **86            General process for assessing compliance assessable work**

- (1) This section applies, subject to sections 86B and 86C, for assessing compliance assessable work (the *work*) other than compliance assessable work mentioned in section 86A(1).
- (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; and
  - (d) if the request is about compliance assessable work in a part of the SEQ region that involves SEQ water work—accompanied by either of the following—
    - (i) a document or information to show the work has been approved by or for the relevant service provider;

*Examples of a document for paragraph (d)(i)—*

- a development approval
  - an SEQ Water Act water approval
  - a Water Supply Act connection approval
- (ii) information to show the approval mentioned in subparagraph (i) accompanied the request for compliance assessment of the plan for the compliance assessable work.
- (3) A request to assess the work at a particular stage may be made by phone or electronically.
- (4) However, a request for compliance assessment that is for, or that includes, a greywater use facility for testing purposes may be made only if a testing approval has been granted for the facility.
- (5) The local government must assess the work at the stages prescribed under the Standard Plumbing and Drainage Regulation.
- (6) However, if the work is on-site sewerage work, the local government may decide not to carry out the assessment if an approved person for the assessment gives it a notice (a ***notice of compliance***) in the approved form verifying that the work complies with—
- (a) the relevant compliance permit; and
  - (b) the Standard Plumbing and Drainage Regulation.
- (7) After assessing the work or, if a notice of compliance is given, the giving of the notice, the local government may ask the person making the request to supply a plan of the assessed work.
- (8) The request for compliance assessment must be decided within 3 business days—
- (a) if the local government has not requested a plan of the assessed work—after assessing the completed work; or
  - (b) if the local government has requested a plan of the assessed work—after receiving the plan.

- (9) The local government must in deciding the request—
- (a) give the person making the request a compliance certificate; or
  - (b) refuse to give a compliance certificate.
- (9A) A local government can not give a compliance certificate for SEQ water work unless it is the relevant service provider for the work or 1 of the following applies—
- (a) the work has been approved by the distributor-retailer who is the relevant service provider for the work;  
*Examples of an approval for paragraph (a)—*
    - a development approval
    - an SEQ Water Act water approval
    - a Water Supply Act connection approval
  - (b) the local government has been advised by the distributor-retailer in writing that a compliance certificate for the type of work may be given without the distributor-retailer’s approval.
- (9B) A distributor-retailer may give a participating local government a written advice for subsection (9A)(b) for stated types of connections, disconnections or changes to connections for the distributor-retailer’s water infrastructure.
- (10) If the local government gives a compliance certificate, the local government must also give a copy of the certificate to—
- (a) the owner of the premises to which the certificate relates; and
  - (b) if the work involved the installation of water meters on premises—the water service provider for the premises, if the water service provider is not the local government.
- (11) If the local government does not decide the request within the time stated in subsection (8), the request is taken to have been refused.
- (12) If the local government refuses to give a compliance certificate, the local government must give the person who made the request an information notice about the decision.

*Note—*

For appeals against the decision, see the *Sustainable Planning Act 2009*, chapter 7, part 2, divisions 6, 8 and 9.

(13) In this section—

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

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

### **86AA Participating local government to give documents or information to distributor-retailer**

- (1) A distributor-retailer may, by notice in writing to a participating local government for the distributor-retailer, advise the local government that it must give the distributor-retailer—
  - (a) a copy of a stated type of compliance certificate for compliance assessable work given by the local government; or
  - (b) a copy of a stated type of compliance certificate, including plans of the assessed work for the certificate, for compliance assessable work assessed by the local government; or
  - (c) stated information about water meters installed on premises.
- (2) If a distributor-retailer gives a participating local government a notice under subsection (1), the local government must comply with the notice.

**86A Process for assessing certain compliance assessable work in remote areas**

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

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- (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.

*Note—*

For appeals against the decision, see the *Sustainable Planning Act 2009*, chapter 7, part 2, divisions 6, 8 and 9.

- (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 the resolution is available for inspection at the local government's public office under the *Local Government Act 2009* or, if the local government is the Brisbane City Council, its public office under the *City of Brisbane Act 2010*.

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

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

## **86C Conditions of compliance certificate**

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

*Examples—*

- 1 A condition could require the owner of the relevant premises to maintain, in a stated way, the facility's filtering system.
  - 2 If the greywater use facility is or includes a greywater treatment plant, a condition could require the owner of the treatment plant to have in place an arrangement to ensure people are not exposed to its contents.
- (3) Conditions may be imposed on a compliance certificate for on-site sewerage work only if they relate to the ongoing operation, maintenance or testing of the relevant on-site sewerage facility.

*Examples—*

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



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## **Division 4A                      Compliance certificates**

### **86D      Effect of later grant of chief executive approval**

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

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

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

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

### **86F Ending of particular compliance certificates for testing**

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

### **86G Power to amend conditions of particular compliance certificates**

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

## **Division 4B Notifiable and unregulated work**

### **87 Notifiable work**

- (1) This section applies for notifiable work that has been completed.
- (2) For the purposes of subsection (1), notifiable work is completed when the earlier of the following happens—
  - (a) the work becomes operational;
  - (b) an invoice has been issued for the work;

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- (c) if the work is carried out with other notifiable work as part of a transaction (a *single transaction*)—
- (i) all of the work that is part of the single transaction becomes operational; or
  - (ii) an invoice has been issued for all or some of the work that is part of the single transaction.
- (3) The following person must, in the way and at the time required under this section, give the QBCC commissioner notice of the work—
- (a) if it was carried out by or for an entity (a *relevant entity*) that is a public sector entity or an entity mentioned in section 89(2)—the relevant entity;
  - (b) if 1 licensee for the work (a *supervising licensee*) directed the carrying out of, or supervised a person who carried out, the work—the supervising licensee;
  - (c) if 2 or more licensees for the work (each also a *supervising licensee*) jointly or separately directed the carrying out of, or supervised a person who carried out, the work—each supervising licensee;
  - (d) otherwise—the person who carried out the work (a *relevant licensee*).

Maximum penalty—60 penalty units.

- (4) The notice must—
- (a) be in the approved form or made electronically under section 87A; and
  - (b) be given within the period prescribed under the Standard Plumbing and Drainage Regulation or, if no period is prescribed, 10 business days after completion of the work; and
  - (c) be accompanied by the fee prescribed under a regulation.
- (5) If notifiable work is part of a single transaction, a notice may be given for all or some of the work that comprises the transaction.

- (6) For subsection (3)(c), compliance by 1 of the supervising licensees with subsection (3) is regarded as compliance by all of the supervising licensees.
- (7) Subsection (3) does not apply if the person has a reasonable excuse.
- (8) Without limiting the circumstances in which a local government may be required to inspect notifiable work, the local government may, but need not, inspect the work as a result of the notice being given.
- (9) The relevant entity, supervising licensee or relevant licensee who gave the notice to the commissioner must also give a copy of the notice to—
  - (a) the owner of the premises where the work was carried out; or
  - (b) if another person asked the relevant entity, supervising licensee or relevant licensee to carry out the work—the other person.
- (10) The copy of the notice given under subsection (9) must be accompanied by the following information—
  - (a) a statement that notice of completed notifiable work must be given to the commissioner;
  - (b) details of the notice given or information about how the owner or other person may access details of the notice given;
  - (c) a statement that the local government may decide to inspect the work and may contact the owner or other person about inspecting the work.
- (11) Subsection (12) applies if the work is emergency work carried out in the SEQ region that involves connecting to, disconnecting from or changing a connection to a relevant service provider's water infrastructure.
- (12) If the local government is not the relevant service provider for the work, when the relevant entity or person gives the commissioner the notice the entity or person must also give the relevant service provider a copy of the notice.

(13) In this section—

*emergency work* means plumbing work or drainage work that must, because of a failure in plumbing or drainage, be performed to stop a continuing risk to health and safety or damage to property.

### **87A Special provision about electronic notices**

- (1) The QBCC commissioner may approve an electronic system (the *approved system*) to send and receive electronic communications under this part.
- (2) If a licensee can use the approved system for giving a notice under this part, the notice may be given by electronically sending to the commissioner, using the approved system, the information required in the approved form for the notice in the format provided for under the approved system.

### **87B Disclosure of particular information for facilitating assessment of notifiable work**

- (1) This section applies for the purpose of facilitating an assessment of notifiable work about which a notice has been given to the QBCC commissioner under section 87(3).
- (2) The commissioner may give a copy of the notice, or disclose information contained in the notice, to the local government or the owner or occupier of the relevant premises.

### **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 including, for example, actions that may, or must, be taken in relation to the inspection of notifiable work; or
- (c) circumstances in which a local government must inspect notifiable work.

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## Part 5 Chief executive approvals

### Division 1 Applying for and obtaining approval

#### 91 Applying for chief executive approval

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

#### 92 Information request

- (1) The chief executive may give the applicant a written notice (an *information request*) requesting further information from the applicant needed to decide the application.
- (2) An information request must be made within 20 business days after the application is received.

- (3) However, if information is given under an information request made within the 20 business days, another information request may be made within 20 business days after the information is received.
- (4) If an information request is made and the chief executive does not receive the information requested within the following period, the application lapses—
  - (a) generally—1 year after the request was made;
  - (b) if, within the year, the chief executive agrees to a longer period—the longer period.

### **93 Deciding application**

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



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## 94 Conditions of approval

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

*Example—*

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

- evidence of the approval
- details of the model of the plant
- instructions for its building or manufacture, installation, operation, and maintenance.

- (2) If the item the subject of the approval is an on-site sewerage facility, the conditions—

- (a) may authorise the dismantling or taking away of all or part of the installed facility; and

*Note—*

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

- (b) for an on-site sewerage facility installed only for testing purposes—also may state when the contents of the installed facility may be disposed of in a way mentioned in section 128P(1) or (3).

## 95 Information notice

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

*Note—*

For appeals against the decision, see the *Sustainable Planning Act 2009*, chapter 7, part 2, divisions 6, 8 and 9.

## **Division 2                      Miscellaneous provisions**

### **96      Term of chief executive approval**

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

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

### **97      Renewals**

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

### **98      Publication of chief executive approvals**

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

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

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## Part 6 Investigation and enforcement by local governments

### Division 1 Inspectors

#### 107 Appointment and qualifications

- (1) For this Act, a local government may appoint an individual to be an inspector if it is satisfied the individual is qualified for appointment because the individual has the qualifications and experience prescribed under a regulation.
- (2) A local government must—
  - (a) advise the QBCC commissioner of each appointment it makes under subsection (1); and
  - (b) within 20 business days after 1 July in each year, give the commissioner 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;

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- (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 2009 and City of Brisbane Act 2010

- (1) An inspector's functions are to conduct investigations and inspections for monitoring and enforcing compliance with—
  - (a) this Act; or
  - (b) the *Sustainable Planning Act 2009*; or
  - (c) the *Local Government Act 2009*; or
  - (d) the *City of Brisbane Act 2010*.

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- (2) Subsection (1)(b), (c) and (d) apply, to the extent possible for the Acts mentioned in subsection (1)(b), (c) and (d), 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 2009* or *City of Brisbane Act 2010* and a reference in those Acts to an authorised person are, for this Act, taken to be a reference to an inspector under this Act; and
  - (b) may give a notice requiring work regulated under the Acts mentioned in subsection (1) to be performed.

## Division 2                      Enforcement

### 115      Show cause notices

- (1) Before a local government gives a person an enforcement notice under section 116(1)(a)(ii) to (iv) or (2), the local government must give the person written notice (a ***show cause notice***) inviting the person to show cause why an enforcement notice should not be given to the person.
- (2) The show cause notice must—
  - (a) outline the facts and circumstances forming the basis for the belief that an enforcement notice should be given to the person; and
  - (b) state that representations may be made about the show cause notice; and
  - (c) state how the representations may be made; and
  - (d) state where the representations may be made or sent; and
  - (e) state—
    - (i) a day and time for making the representations; or

- (ii) a period within which the representations must be made.
- (3) The day or period stated in the notice must be, or must end, at least 20 business days after the notice is given.

## **116 Enforcement notices**

- (1) A local government may give written notice to the owner of premises requiring the owner to do a stated thing if the local government reasonably believes—
  - (a) plumbing or drainage on the premises—
    - (i) is in a condition, or functions in a way, that constitutes a danger or health risk to occupiers of the premises or the public; or
    - (ii) is defective and should be altered, repaired or replaced; or
    - (iii) is not adequate to deal with the sewage or greywater generated on the premises or is in a condition that unreasonably interferes, or is likely to unreasonably interfere, with the use or enjoyment of any other premises; or
    - (iv) was installed without, or not in accordance with, the local government's approval; or
  - (b) the premises is not in a sewered area and the absence of an on-site sewerage facility on the premises constitutes a danger or health risk to occupiers of the premises or the public; or
  - (c) the owner has contravened, or is contravening, section 128K, 128L or 128M.
- (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.

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- (3) Without limiting what may be required under subsection (1) or (2), a notice under subsection (1) or (2) may require the owner or person to do any of the following—
  - (a) request a compliance assessment;
  - (b) do, or not do, a stated thing to ensure plumbing or drainage work complies with this Act or a relevant compliance permit or certificate;
  - (c) alter, repair, replace or remove plumbing or drainage work.

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

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

### **118 Relationship with Sustainable Planning Act 2009**

- (1) An enforcement notice given under this Act is taken to be an enforcement notice given under the *Sustainable Planning Act 2009*.



*Note—*

See the *Sustainable Planning Act 2009*, section 594 (Offences relating to enforcement notices).

- (2) If the notice is given under section 116(1)(a)(i) or (b) or (c), the appeal must be started within 5 business days after the day the notice is given.
- (3) Subsection (2) applies despite the *Sustainable Planning Act 2009*, section 533(2).

## **Part 6A                      General offences**

### **Division 1                      Offences about licences**

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

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

Maximum penalty—165 penalty units.

#### **120      Offence of directing or supervising unlicensed work**

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

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

Maximum penalty—165 penalty units.

## 121 Exemptions for ss 119 and 120

- (1) A person does not commit an offence against section 119 or 120 if the work mentioned in the section is—
  - (a) only the excavation or backfilling of trenches, or other work of an unskilled nature; or
  - (b) performed by a designated person, under the direct supervision of a licensed person for the work; or
  - (c) drainage work performed under the direct supervision of a person holding a drainers licence; or
  - (d) the installation of all or part of a greywater application area for a greywater use facility; or
  - (e) the installation, and any work relating to the installation, of a relevant water meter by an authorised person under the Water Supply Act, section 35.

- (2) In this section—

***authorised person*** see the Water Supply Act, schedule 3.

***designated person*** means a person who—

- (a) is an apprentice, trainee or student enrolled in a course that—
  - (i) is conducted by a registered training organisation and leads to the issue of a qualification or statement of attainment; and
  - (ii) relates to plumbing or drainage work; and
- (b) has agreed with an employer and TAFE Queensland to take part in a vocational placement.

***qualification*** means a VET qualification under the *National Vocational Education and Training Regulator Act 2011* (Cwlth).

***registered training organisation*** see the *National Vocational Education and Training Regulator Act 2011* (Cwlth), section 3.

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**relevant water meter** means a water meter for measuring the volume of water supplied to any of the following—

- (a) a lot under the *Land Title Act 1994*, other than a lot—
  - (i) included in a community titles scheme under the *Body Corporate and Community Management Act 1997*; or
  - (ii) shown on a building units plan or group titles plan under the *Building Units and Group Titles Act 1980*;
- (b) a separate, distinct parcel of land for which an interest is recorded in a register under the *Land Act 1994*;
- (c) a site of a mixed use scheme under the *Mixed Use Development Act 1993*;
- (d) a primary or secondary thoroughfare under the *Integrated Resort Development Act 1987* or the *Sanctuary Cove Resort Act 1985*;
- (e) a premises group within the meaning of the Water Supply Act, schedule 3.

**statement of attainment** means a VET statement of attainment under the *National Vocational Education and Training Regulator Act 2011* (Cwlth).

**TAFE Queensland** means TAFE Queensland established under the *TAFE Queensland Act 2013*, section 5(1).

## 122 Contravening licence conditions

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

Maximum penalty—100 penalty units.

## 123 Limitations on provisional licence holders

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

Maximum penalty—100 penalty units.

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

Maximum penalty—100 penalty units.

## **124 Restriction on advertising for the carrying out of particular work**

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

Maximum penalty—100 penalty units.

## **Division 2 Building and installation and related offences**

### **125 Restriction on building or installing particular on-site sewage treatment plant**

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

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

*Note—*

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

Maximum penalty—

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- (a) for building or installing an on-site sewage treatment plant in a sewered area—500 penalty units; or
  - (b) otherwise—165 penalty units.

**126 Restriction on building or installing greywater use facility**

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

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

Maximum penalty—165 penalty units.

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

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

Maximum penalty—100 penalty units.

**127A Restriction on dismantling or taking away greywater treatment plant**

A person must not dismantle or take away all or part of a greywater treatment plant installed on premises unless the dismantling or taking away is authorised in writing by the local government or under a chief executive approval.

Maximum penalty—100 penalty units.

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

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

Maximum penalty—100 penalty units.

**128A Offence to pollute service provider's services**

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

Maximum penalty—165 penalty units.

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

Maximum penalty—165 penalty units.

**Division 3 Operating restrictions**

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

The owner of premises for which a compliance certificate has been given for compliance assessable work for a greywater use facility or an on-site sewerage facility must ensure all conditions of the certificate are complied with.

Maximum penalty—165 penalty units.

**128C Restriction on operating chemical, composting or incinerating toilet**

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

*Note—*

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

Maximum penalty—100 penalty units.

### **128D Restriction on operating particular on-site sewerage facilities**

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

*Note—*

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

Maximum penalty—100 penalty units.

### **128E Restrictions on operating particular on-site sewage treatment plant**

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

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

Maximum penalty—100 penalty units.

### **128F Restrictions on operating greywater use facility**

A person must not operate a greywater use facility unless—

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

Maximum penalty—100 penalty units.

### **128G Owner's obligation to maintain plumbing and drainage**

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

Maximum penalty—165 penalty units.

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

### **128H Obligations of person who services on-site sewerage facility or greywater treatment plant**

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



Maximum penalty—40 penalty units.

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

Maximum penalty—100 penalty units.

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

### **128I    Backflow prevention devices**

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

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

Maximum penalty—165 penalty units.

### **128J    Hot water control devices**

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

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

Maximum penalty—165 penalty units.

- (2) In this section—

*hot water control device* means—

- (a) a mixing valve in which the temperature from the mixed water outlet is automatically controlled by a

[s 128JA]

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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.

### **128JA Water meter**

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

Maximum penalty—165 penalty units.

- (2) In this section—

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

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

### **128K Offence about discharging blackwater**

- (1) The owner of premises must ensure all blackwater from plumbing and drainage on the premises is discharged into—
  - (a) if the premises is in a sewered area—
    - (i) for premises that have an on-site sewage treatment plant that has chief executive approval for use for testing purposes—the on-site sewerage facility for the premises or the infrastructure of the sewerage service provider for the area’s sewerage service; or
    - (ii) for other premises—the infrastructure of the sewerage service provider for the area’s sewerage service; or

- 
- (b) if the premises is not in a seweraged area—
    - (i) an on-site sewerage facility; or
    - (ii) a dry-vault toilet; or
    - (iii) an environmentally relevant on-site sewerage facility.

*Note—*

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

Maximum penalty—500 penalty units.

- (2) In this section—

***blackwater*** means—

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

### **128L Offence about discharging kitchen greywater from premises**

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

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

Maximum penalty—500 penalty units.

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

- (1) This section applies to the owner of premises for the discharge of greywater, other than kitchen greywater, from plumbing and drainage on the premises.
- (2) If the premises is in a sewered area, the owner must ensure the greywater is—
  - (a) discharged into—
    - (i) the infrastructure of the sewerage service provider for the area’s sewerage service; or
    - (ii) a greywater use facility; or
  - (b) carried by bucket or discharged by a hose to a garden or lawn on the premises.

Maximum penalty—500 penalty units.

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

Maximum penalty—500 penalty units.

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

Maximum penalty—100 penalty units.

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

### **128N Permissible and prohibited discharges**

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

Maximum penalty—165 penalty units.

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

Maximum penalty—165 penalty units.

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

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

Maximum penalty—165 penalty units.

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

Maximum penalty—165 penalty units.

### **128OA Disposal of contents of greywater treatment plant**

A person must not, without the local government's approval, dispose of the contents of a greywater treatment plant into the infrastructure of the sewerage service provider for the area in which the plant is located.

Maximum penalty—100 penalty units.

*Example of contents—*

sludge

### **128P Disposal of contents of on-site sewerage facility**

- (1) A person must not dispose of the contents (other than effluent) of an on-site sewerage facility installed only for testing purposes other than—
  - (a) by using the contents for the discharge of a toilet; or
  - (b) by surface or subsurface irrigation.

Maximum penalty—100 penalty units.

- (2) A person must not dispose of the contents (other than effluent) of an on-site sewerage facility that has not been installed only for testing purposes other than in a place, and a way, approved by the local government.

Maximum penalty—100 penalty units.

- (3) A person must not dispose of effluent from an on-site sewerage facility mentioned in subsection (1) other than to a sewer.

Maximum penalty—100 penalty units.

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

Maximum penalty—100 penalty units.

- (5) Subsections (1) to (4) do not apply to contents or effluent removed for testing.

### **128PA Offence about using greywater**

- (1) This section applies to the owner of premises in a sewered area in relation to the use of greywater, other than kitchen greywater, from plumbing and drainage on the premises.
- (2) The owner must ensure—

- (a) if the greywater is discharged into a greywater treatment plant that is installed on the premises and treats water to the standard stated for the plant in the Queensland Plumbing and Wastewater Code—the greywater is used only on the premises for—
  - (i) garden or lawn irrigation; or
  - (ii) washing vehicles, paths or exterior walls of the premises; or
  - (iii) the discharge of a toilet; or
  - (iv) cold water supply to a washing machine; or
  - (v) supply to a closed loop laundry system; or
- (b) if the greywater is discharged into a greywater treatment plant that is installed on the premises and does not treat water to the standard stated for the plant in the Queensland Plumbing and Wastewater Code—the greywater is used only on the premises for garden or lawn irrigation; or
- (c) if the greywater is discharged into a greywater diversion device—the greywater is used only on the premises for garden or lawn irrigation.

Maximum penalty—500 penalty units.

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

Maximum penalty—100 penalty units.

## **Division 6                      Other offences**

### **128Q    Misleading statement by builder, manufacturer or supplier**

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

Maximum penalty—100 penalty units.

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

Maximum penalty—100 penalty units.

- (3) In this section—

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

### **128R    On-site sewerage facility no longer required**

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

Maximum penalty—40 penalty units.



### **128RA False or misleading statements**

A person must not state anything to an investigator, inspector, local government or the QBCC commissioner that the person knows is false or misleading in a material particular.

Maximum penalty—40 penalty units.

### **128S False or misleading documents**

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

Maximum penalty—40 penalty units.

### **128T Obstruction of investigators or inspectors**

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

Maximum penalty—40 penalty units.

- (2) In this section—

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

### **128U Impersonation of investigator or inspector**

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

Maximum penalty—40 penalty units.

## **Part 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, the QBCC commissioner or an inspector; or
- (b) the authority of the chief executive, the commissioner or an inspector to do anything under this Act.

#### **136      Signatures**

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

#### **137      Evidentiary provisions**

A certificate purporting to be signed by the chief executive or QBCC commissioner 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;

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- (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      Prosecutions for offences**

- (1) An offence against this Act is a summary offence.
- (2) A proceeding for the offence must start within 2 years after the alleged date of commission of the offence or within 1 year after the offence comes to the complainant's knowledge, whichever is the later.
- (3) A prosecution may be started only by—
  - (a) for any offence regardless of where the offence is alleged to have been committed—
    - (i) a person authorised by the QBCC commissioner (either generally or in a particular case) to start the prosecution; or
    - (ii) the chief executive; or
  - (b) for an offence alleged to have been committed in a local government area for which a local government administers the Standard Plumbing and Drainage Regulation for the area—the local government; or

- (c) for an offence alleged to have been committed in an area within a local government's area that is under the control of an entity other than the local government and for which the entity administers the Standard Plumbing and Drainage Regulation—the entity.
- (4) The authorisation required by subsection (3) is to be presumed in the absence of evidence to the contrary.
- (5) All penalties recovered as a result of proceedings for which the QBCC commissioner, or a person authorised by the commissioner, is the complainant must be paid to QBCC.
- (6) All penalties recovered as a result of an infringement notice served under the *State Penalties Enforcement Act 1999* for an offence against this Act and for which QBCC is the administering authority for the infringement notice must be paid to QBCC.
- (7) In this section—  
*administering authority*, for an infringement notice, see the *State Penalties Enforcement Act 1999*, schedule 2.

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

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

### **139A Allegations of false or misleading matters**

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

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## 140 Conduct of representatives

- (1) This section applies to a proceeding for an offence against this Act if it is relevant to prove a person's state of mind about particular conduct.
- (2) It is enough to show—
  - (a) the conduct was engaged in by a representative of the person within the scope of the representative's actual or apparent authority; and
  - (b) the representative had the state of mind.
- (3) Conduct engaged in for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been engaged in also by the person unless the person proves—
  - (a) if the person was in a position to influence the representative in relation to the conduct—the person took reasonable steps to prevent the conduct; or
  - (b) the person was not in a position to influence the representative in relation to the conduct.
- (4) In this section—

*engaging* in conduct includes failing to engage in conduct.

*representative* means—

- (a) for a corporation—an agent, employee or executive officer of the corporation; or
- (b) for an individual—an agent or employee of the individual.

*state of mind* of a person includes the person's—

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

## Part 9 Miscellaneous provisions

### 141 Approval of forms

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

### 143 Local government's obligation to keep particular records

- (1) A local government must keep a copy of each of the following documents (each a *compliance document*) until the designated period for the document ends—
  - (a) each compliance permit it gives, and the plan and any other document relating to the permit;
  - (b) each compliance certificate it gives, and the plan of assessed work relating to the certificate.
- (2) The local government must, until the designated period for a compliance document ends—
  - (a) ensure a copy of the document is available for inspection at the local government's public office under the *Local Government Act 2009* or, if the local government is the Brisbane City Council, its public office under the *City of Brisbane Act 2010*; and
  - (b) make a copy available for purchase at its public office at a price not more than the cost to the local government of producing the copy and, if a copy is supplied to a purchaser by post, the cost of postage.
- (3) A person employed by the local government who has charge of compliance documents must not obstruct or hinder the inspection or copying of a document under subsection (2).

Maximum penalty—10 penalty units.

- (4) In this section—  
*designated period*, for a compliance document, means—

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

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

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

*Note—*

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

#### **143B Local government's monitoring obligations for greywater use facilities in sewered areas**

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

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

### **143C Local government's monitoring obligations for particular on-site sewerage facility**

Each local government must monitor on-site sewerage facilities installed for testing purposes in seweraged areas within its area to ensure—

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

### **144 Chief executive may publish information**

- (1) The chief executive may publish information about plumbing and drainage work including, for example, information about legislation and technical standards for the work.
- (2) For subsection (1), the chief executive may publish the information in a way the chief executive considers appropriate, including, for example, on the internet.

### **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, including about inspecting plumbing and drainage 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.



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

- (1) This section applies to a reference in an Act or document, immediately before the commencement of this section, to—
  - (a) the repealed Act; or
  - (b) the *Sewerage, Water Supply, and Gasfitting Act 1949*; or
  - (c) the *Standard Sewerage By-laws 1981*; or
  - (d) the Standard Sewerage By-laws (however described); or
  - (e) the Standard Sewerage Law; or
  - (f) the *Standard Water Supply By-laws 1949*; or
  - (g) Standard Water Supply By-laws (however described); or
  - (h) the Standard Water Supply Law.
- (2) On and from the commencement, the reference may, if the context permits, be taken to be a reference to this Act or the Standard Plumbing and Drainage Regulation.

**Part 10 Repeal and transitional provisions**

**Division 1 Repeal**

**147 Act repealed**

The Sewerage and Water Supply Act 1949 is repealed.

## **Division 2                      Transitional provisions for Act No. 77 of 2002**

### **Subdivision 1                Transitional provisions about members, inspectors and licensing**

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

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

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

*Note—*

The council was disestablished under the *Professional Engineers and Other Legislation Amendment Act 2014*.

#### **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.

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- (3) Section 151 applies to a licence issued because of a decision under subsection (2) as if the licence were a licence in force immediately before the commencement.

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

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

## **Subdivision 2 Transitional provisions about plumbing and drainage work**

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

- (1) Subsection (2) applies if—

[s 153]

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- (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.

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### **Subdivision 3      Transitional provisions about on-site sewerage facilities**

#### **156      Existing applications continue**

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

(2) In this section—

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

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

#### **157      Existing approvals continue**

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

(2) In this section—

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

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

[s 158]

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

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

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

**Subdivision 4 Miscellaneous transitional provisions**

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

**160 Definitions for div 3**

In this division—

*commencement* means the day this section commences.

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

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

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

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

**161 Existing applications for model or type specification approval**

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

**162 Existing model or type specification approval**

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

**163 Existing on-site sewerage facility applications**

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

**164 Old section 96 approvals continue**

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

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

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

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

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

**167 On-site facility conditions**

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

**168 Existing notices under old part 5**

- (1) This section applies if, immediately before the commencement—
  - (a) a notice had been given under division 4 of old part 5; and
  - (b) the notice had not been complied with.
- (2) The following provisions continue to apply for the notice and subject of the notice as if they had not been repealed—



- (a) the section under which the notice was given;
  - (b) old part 7, division 2.
- (3) To remove any doubt, it is declared that subsection (2) does not prevent the giving of an enforcement notice for the subject of the notice.

**169 Appeal right for decisions under old part 5**

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

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

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

- (a) a local government approval is given for a change to the facility; or
- (b) a notice is given under section 116 for the facility.

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

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

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

### **172      Provisions for chemical, composting or incinerating toilets**

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

### **173      Provision about offences under s 128M**

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

- (2) In this section—

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

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

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**Division 5**                      **Transitional provisions for  
Queensland Civil and  
Administrative Tribunal  
(Jurisdiction Provisions)  
Amendment Act 2009**

**174**      **Definitions for div 5**

In this division—

*commencement* means the commencement of this section.

*previous*, if followed by a provision number, means the provision of that number in force before the commencement.

*Note*—

See also the QCAT Act, chapter 7.

**175**      **Application of s 70A**

- (1) This section applies if, immediately before the commencement, the council—
  - (a) had given a show cause notice to a licensee under previous section 66; but
  - (b) had not advised the licensee of its decision under previous section 69.
- (2) From the commencement, the council must comply with section 70A in relation to the licensee.

**176**      **Registrar of Plumbers and Drainers Board**

- (1) This section applies to the person who was the secretary of the Plumbers and Drainers Board immediately before the commencement.
- (2) The person is taken to have been appointed as registrar of the board under section 29(1).

## **Division 6**                      **Transitional provisions for Building and Other Legislation Amendment Act 2009**

### **177**      **Definitions for div 6**

In this division—

*commencement* means the day the *Building and Other Legislation Amendment Act 2009*, section 63 commences.

*former board* see section 178(1).

### **178**      **Dissolution of Plumbers and Drainers Board**

- (1) On the commencement—
  - (a) the Plumbers and Drainers Board (the *former board*) ceases to exist; and
  - (b) the following go out of office—
    - (i) the former board's members;
    - (ii) the former board's chairperson and deputy chairperson;
    - (iii) a member of a committee of the former board.
- (2) To remove any doubt, it is declared that subsection (1) does not prevent a person mentioned in subsection (1)(b) from being nominated for, or holding office with, the council.
- (3) No amount, whether by way of compensation, reimbursement or otherwise, is payable by the State for or in connection with the enactment or operation of subsection (1).

### **179**      **Registrar and officers of former board**

On the commencement—

- (a) the former board's registrar immediately before the commencement becomes the council's registrar; and

- 
- (b) another officer of the former board becomes an officer of the council in the same position as their former office with the board.

*Note—*

The council and the office of registrar were disestablished under the *Professional Engineers and Other Legislation Amendment Act 2014*.

## **180 References to former board**

In an Act or document a reference to the former board may, if the context permits, be taken as a reference to the council.

## **181 Legal proceedings**

- (1) A proceeding that has been started or could have been started or continued by or against the former board before the commencement may be started or continued by or against the council.
- (2) In this section—

*proceeding* includes a referral under section 70A to QCAT.

## **182 Migration of undecided applications**

If, immediately before the commencement, an application had been made to the former board but not decided, the application is taken to have been made to the council when it was made to the former board.

## **183 Migration of former board's matters**

On the commencement, the following made by the former board in force immediately before the commencement are taken to have been made by the council when the former board made them—

- (a) a decision;
- (b) a licence or other document;

- (c) a referral under section 70A to QCAT.

**Division 7**                      **Transitional provisions for  
South-East Queensland Water  
(Distribution and Retail  
Restructuring) and Other  
Legislation Amendment Act 2010**

**Subdivision 1**                **Provisions for greywater treatment  
plants at particular hospitals**

**184**     **Chief executive approval of particular greywater  
treatment plant**

- (1) A greywater treatment plant that is an ‘AquaRecycle Laundry Water Recycling System’ is taken to have a chief executive approval.
- (2) Despite section 96, the approval lasts until 4 June 2014.
- (3) However, section 97 applies for the approval as if it were a chief executive approval.

**185**     **Relevant compliance certificate conditions for particular  
regulated work**

- (1) This section provides for the application of section 143B to the following greywater use facilities—
  - (a) the greywater treatment plant located at Prince Charles Hospital Campus, 490 Hamilton Road, Chermside, Queensland (the *Prince Charles Hospital facility*);
  - (b) the greywater treatment plant located at Princess Alexandra Hospital Campus, building 55, Ipswich Road, Woolloongabba, Queensland (the *Princess Alexandra Hospital facility*).

- (2) The relevant compliance certificate conditions for the Prince Charles Hospital facility are the conditions that applied, before the commencement of this section, to the exemption granted to the Prince Charles Hospital, Metropolitan Linen Service, Greywater Recycling Scheme under the Water Supply Act, section 253, other than a condition about preparing an annual report or giving the annual report to the regulator.
- (3) The relevant compliance certificate conditions for the Princess Alexandra Hospital facility are the conditions that applied, before the commencement of this section, to the exemption granted to the Princess Alexandra Hospital, Metropolitan Linen Service, Greywater Recycling Scheme under the Water Supply Act, section 253, other than a condition about preparing an annual report or giving the annual report to the regulator.
- (4) A reference to the regulator in a condition mentioned in subsection (2) or (3) is taken to be a reference to the Brisbane City Council.
- (5) The regulator must, as soon as practicable, give the Brisbane City Council a copy of the conditions mentioned in subsections (2) and (3).

## **Subdivision 2      Other provisions**

### **186      Policies about installation and location of meters**

- (1) This section applies if, immediately before 1 July 2010, a participating local government for a distributor-retailer has a policy for dealing with matters, under the Queensland Plumbing and Wastewater Code, about the installation and location of meters for premises.
- (2) On 1 July 2010, the policy is taken to be the distributor-retailer's policy for dealing with matters, under the Queensland Plumbing and Wastewater Code, about the installation and location of meters for premises in the distributor-retailer's geographic area.

**Division 8**                      **Transitional provision for  
South-East Queensland Water  
(Distribution and Retail  
Restructuring) and Other  
Legislation Amendment Act 2012**

**188**      **References to relevant service provider until 1 July 2012**

- (1) Until 1 July 2012—
- (a) paragraph (a) of the definition *relevant service provider* in the schedule does not apply; and
  - (b) SPOLA amended section 87 continues to apply instead of post-1 July 2012 section 87.

- (2) In this section—

***post-1 July 2012 section 87*** means section 87 as amended under SEQ.

***SEQ*** means the *South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2012*.

***SPOLA*** means the *Sustainable Planning and Other Legislation Amendment Act 2012*.

***SPOLA amended section 87*** means section 87 as in force immediately before its amendment under SEQ, and if the amendments of section 87 under SPOLA commence before 1 July 2012, section 87 as amended under SPOLA.



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**Division 9**                      **Transitional provision for  
Sustainable Planning and Other  
Legislation Amendment Act 2012**

**189**    **Regulated work taken to be compliance assessable work**

- (1) This section applies to a compliance request for compliance assessment of a plan for regulated work made to a local government under section 85 before the commencement.
- (2) On the commencement, the work the subject of the request is taken to be compliance assessable work.
- (3) If, before the commencement, the local government has given the person who made the request a compliance permit for the work—
  - (a) the compliance permit is taken to be a compliance permit for compliance assessable work; and
  - (b) any condition of the compliance permit continues to apply.
- (4) In this section—

*commencement* means the commencement of this section.

**Division 10**                      **Validation provision for Housing  
and Other Legislation Amendment  
Act 2013**

**190**    **Validation of functions and powers of inspectors**

- (1) This section applies to a function or power performed by an inspector under section 114 as in force immediately before the commencement.
- (2) To remove any doubt, it is declared that the performance of the function or power is taken to be, and always to have been, as valid as if section 114, as in force immediately after the

commencement, had been in force on the day the function or power was performed.

(3) In this section—

*commencement* means the commencement of this division.

## **Division 11            Transitional provisions for Professional Engineers and Other Legislation Amendment Act 2014**

### **Subdivision 1        Preliminary**

#### **191    Definitions for div 11**

In this division—

*amended Act* means this Act as amended by the amending Act.

*amending Act* means the *Professional Engineers and Other Legislation Amendment Act 2014*.

*commencement* means the commencement of this section.

*former council* means the council established under the unamended Act.

*unamended Act* means this Act as in force immediately before the commencement.

### **Subdivision 2        Dissolution of former council**

#### **192    Dissolution**

(1) On the commencement—

- (a) the former council ceases to exist; and
- (b) the registrar and members of the former council go out of office.

(2) In this section—

*registrar* means the person holding the office of registrar under the unamended Act immediately before the commencement.

## **Subdivision 3      Transfer of matters to QBCC**

### **193      Agreements, assets, liabilities and rights**

(1) On the commencement—

- (a) the former council's assets, liabilities and rights vest in QBCC; and
- (b) QBCC is substituted for the former council in all agreements to which the former council was a party immediately before the commencement.

(2) Without limiting subsection (1), any amounts payable to the former council immediately before the commencement are, on the commencement, taken to be payable to QBCC.

(3) In this section—

*agreement* includes a lease, undertaking and contractual arrangement.

### **194      Pending applications**

(1) This section applies to an application made but not finally decided or withdrawn before the commencement—

- (a) under the unamended Act to the former council; or
- (b) by the former council to QCAT.

(2) On and from the commencement, the application is taken to have been made—

- (a) if subsection (1)(a) applies—to the QBCC commissioner under the amended Act; or

- (b) if subsection (1)(b) applies—by the commissioner to QCAT;  
when it was made to or by the former council.
- (3) For deciding the application, if the context permits—
  - (a) action taken by the former council before the commencement in relation to the application is action taken by the commissioner; and
  - (b) the commissioner may be satisfied about a matter merely because the former council was satisfied about the matter under the relevant provision of the unamended Act.

### **195 Pending legal proceedings**

- (1) A legal proceeding that has been started, or could have been started, by or against the former council before the commencement may be started or continued by or against the QBCC commissioner.
- (2) In this section—  
*legal proceeding* means a proceeding before a court or tribunal.

### **196 Ministerial directions to former council**

- (1) This section applies to a Ministerial direction given before the commencement to the former council under section 28 of the unamended Act.
- (2) The Ministerial direction is, if the context permits, taken to have been given to QBCC under the QBCC Act, section 9.

### **197 Records of former council**

- (1) On the commencement, a record of the former council becomes a record of QBCC.
- (2) In this section—

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*record* includes a register kept by the former council under the unamended Act.

## **198 Continuing appointment of investigators**

- (1) This section applies to a person appointed as an investigator under section 33A of the unamended Act.
- (2) On and from the commencement, the person is taken to have been appointed as an investigator by the QBCC commissioner.
- (3) Action taken for an investigation under the unamended Act continues to have effect for the purpose of the amended Act.
- (4) Subsection (5) applies if, immediately before the commencement—
  - (a) an identity card had been issued to the person under section 33D of the unamended Act; and
  - (b) the card had not expired according to its terms.
- (5) The card is taken to be an identity card issued to the person by the commissioner until the earlier of the following—
  - (a) a new identity card is issued to the person by the commissioner under the amended Act;
  - (b) the card expires according to its terms.

## **199 Pending disciplinary matters under pt 3, div 7**

- (1) This section applies if, before the commencement—
  - (a) the former council had given a licensee a show cause notice under section 66 of the unamended Act and had not yet made a decision under section 69 of that Act; or
  - (b) a matter was referred to QCAT by the former council under section 70A of the unamended Act and the matter had not been finally decided or withdrawn.

- (2) On and from the commencement, the show cause notice or referral of the matter is taken to have been given or made by the QBCC commissioner under the amended Act.
- (3) For completing the matter—
  - (a) steps taken by the former council before the commencement in relation to the matter are steps taken by the commissioner under the amended Act; and
  - (b) the commissioner may be satisfied about a matter merely because the former council was satisfied about the matter under the unamended Act.

## **200 Other administrative matters**

- (1) Subsection (2) applies to each of the following things in effect under the unamended Act immediately before the commencement—
  - (a) a direction or notice given by the chief executive or former council;  
*Example—*

a show cause notice issued by the former council under section 66 of the unamended Act
  - (b) a request, requirement or order made by the chief executive or former council that has not been fully complied with on the commencement;  
*Example—*

a request of an applicant to provide the former council with further information or evidence to decide an application
  - (c) a certificate or licence issued by the former council;
  - (d) a decision of the former council;
  - (e) an audit program prepared and approved by the former council under section 33TB.
- (2) The thing continues in effect as if it had been given, issued, made, prepared or approved by the QBCC commissioner when the thing first took effect.

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## Subdivision 4 Review of particular decisions

### 201 Pending reviews of particular decisions

- (1) This section applies if, before the commencement—
  - (a) an application for review of a relevant decision had been made but not decided or otherwise finally dealt with; or
  - (b) the period in which a person was entitled to apply under the unamended Act for review of a relevant decision had started but not ended.
- (2) The review of the relevant decision may be completed, or started and completed, as if—
  - (a) the unamended Act continued to apply; and
  - (b) the QBCC Act, part 7, division 3 did not apply for review of the decision.
- (3) In this section—

*relevant decision* means a decision under section 40, 59 or 68.

## Subdivision 5 Other matters

### 202 References to former council

In an Act or document, a reference to the former council may, if the context permits, be taken to be a reference to the QBCC commissioner.

### 203 Effect on legal relationships

- (1) Nothing done under the amendments to this Act under the amending Act (the *Act amendments*)—
  - (a) makes a relevant entity in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment, novation or transfer of a right or liability or the disclosure of information; or

- (b) except as provided for under the Act amendments, is taken to fulfil a condition that—
  - (i) terminates, or allows a person to terminate, an instrument or obligation; or
  - (ii) modifies, or allows a person to modify, the operation or effect of an instrument or obligation; or
  - (iii) allows a person to avoid or enforce an obligation or liability contained in an instrument or requires a person to perform an obligation contained in an instrument; or
  - (iv) requires any money to be paid before its stated maturity.
- (2) If, apart from this subsection, the advice, consent or approval of a person would be necessary to do something under the Act amendments, the advice is taken to have been obtained or the consent or approval is taken to have been given unconditionally.
- (3) If, apart from this Act, giving notice to a person would be necessary to do something under the Act amendments, the notice is taken to have been given.
- (4) In this section—

*relevant entity* means—

  - (a) the State or an employee or agent of the State; or
  - (b) QBCC, or a member or relevant officer of QBCC.

## 204 Transitional regulation-making power

- (1) A regulation (a *transitional regulation*) may make provision of a saving or transitional nature for which—
  - (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of this Act as in force immediately before the



commencement to the operation of this Act on or after the commencement; and

- (b) this division does not make provision or sufficient provision.
- (2) A transitional regulation may have retrospective operation to a day not earlier than the day of the commencement.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This section and any transitional regulation expire 1 year after the day of the commencement.

## Schedule Dictionary

### section 3

***apparatus***, for supplying water to premises, includes a water meter.

***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 audit program***, for part 2, division 2, subdivision 3A, see section 33TA.

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

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

***building and development dispute resolution committee*** means a building and development dispute resolution committee established under the *Sustainable Planning Act 2009*.

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

***chief executive approval*** see section 91(1).

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

***compliance assessable work*** means plumbing work or drainage work that is not notifiable work, minor work or unregulated work.

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

**compliance certificate** see section 79.

**compliance permit** see section 78.

**compliance request** see section 85(1).

**development approval** means a development approval under the *Sustainable Planning Act 2009*.

**distributor-retailer** means a distributor-retailer established under the SEQ Water Act, section 8.

**drainage** means—

(a) an apparatus, fitting or pipe, either above or below ground level, that carries—

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

*Examples—*

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

(ii) greywater from a greywater treatment plant or greywater diversion device; or

(b) an on-site sewerage facility.

**drainage work** includes—

(a) installing, changing, extending, disconnecting, taking away and maintaining drainage; and

(b) on-site sewerage work.

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

(a) receives and treats the waste; and

(b) uses a biological degradation or dehydration process to treat the waste; and

- (c) does not use water other than water for cleaning or to assist the biological degradation process.

**employed licensee**, for part 2, division 2, subdivision 3A, see section 33TD(1)(c).

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

**environmentally relevant on-site sewerage facility**—

- 1 An **environmentally relevant on-site sewerage facility** is a facility described in paragraph 2 that consists of, or includes, a sewage treatment plant the operation of which is an environmentally relevant activity under the *Environmental Protection Act 1994*.
- 2 For paragraph 1, the facility is a facility installed on premises for treating, on the premises, sewage generated on the premises, and disposing of the resulting effluent—
  - (a) on part of the premises (commonly called a ‘land application area’); or
  - (b) off the premises by common effluent drainage or by collection from a tank on the premises.

**EPA design rules** means the design rules under the *Environmental Protection (Waste Management) Regulation 2000*, section 67 and schedule 8.

**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 QBCC commissioner’s functions relating to plumbing and drainage.

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

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

***greywater diversion device***—

- 1 A ***greywater diversion device*** is a device that consists of—
  - (a) a diversion device with the characteristics mentioned in paragraph 2; and
  - (b) a filtering system that uses a coarse filter to remove solids from greywater.
- 2 For paragraph 1, the characteristics are that the device—
  - (a) directs and diverts greywater to sanitary drainage or a greywater application area; and
  - (b) automatically diverts greywater from the facility to sanitary drainage if the facility does not work properly or at all; and
  - (c) allows the manual diversion of greywater from the facility to sanitary drainage.

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

***greywater use facility*** means a facility that consists of—

- (a) a greywater diversion device and a greywater application area; or
- (b) a greywater treatment plant and a greywater application area; or
- (c) a greywater treatment plant.

***information notice*** means—

- (a) for a decision of the QBCC commissioner under part 3, a notice stating the following—
  - (i) the decision;
  - (ii) the reasons for it;
  - (iii) that the person to whom the notice is given may, within 28 days after the person is given the notice—

- (A) apply to QBCC for internal review of the decision under the QBCC Act, part 7, division 3; or
- (B) apply to QCAT for external review of the decision under the QBCC Act, part 7, division 3;
- (iv) how to apply for review of the decision;
- (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 the conditions imposed on a licence be confirmed—the review period applying to the confirmed conditions;
- (viii) 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 council within 10 business days after receiving the information notice; or
- (b) for a decision of the chief executive or a local government, under part 4 or 5, a notice stating the following—
  - (i) the decision;
  - (ii) the reasons for the decision;
  - (iii) that the person to whom the notice is given may appeal against the decision to a building and development dispute resolution committee within 20 business days;
  - (iv) how the person may appeal against the decision.

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

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

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

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

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

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

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

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

***local government***, in relation to work performed or to be performed at a facility or premises, means the local government that, under section 89, administers the Standard Plumbing and Drainage Regulation for—

- (a) the area in which the work is performed, or is to be performed; or
- (b) the area in which the facility or premises is located.

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

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

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

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

***on-site sewerage facility***—

- 1 An ***on-site sewerage facility*** is a facility, other than an environmentally relevant on-site sewerage facility, installed on premises for—
  - (a) treating, on the premises, sewage generated on the premises, and disposing of the resulting effluent—
    - (i) on part of the premises (commonly called a ‘land application area’); or
    - (ii) off the premises by common effluent drainage or by collection from a tank on the premises; or
    - (iii) by using the effluent for the discharge of a toilet or for surface or subsurface irrigation, if the facility is installed only for testing purposes; or
  - (b) storing on the premises sewage generated on the premises for its subsequent disposal off the premises by collection from the premises.
- 2 A chemical, composting or incinerating toilet is also an ***on-site sewerage facility***.
- 3 ***On-site sewerage facility*** does not include a dry-vault toilet that is not a chemical, composting or incinerating toilet.

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

***operate***, plumbing or drainage, includes maintain the plumbing or drainage.

***owner*** means—



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

***participating local government***, for a distributor-retailer, means a participating local government under the SEQ Water Act for the distributor-retailer.

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

***plumbing*** means—

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

***plumbing code authorisation and certification*** means product authorisation and certification under the document in force from time to time called ‘National Construction Code volume 3—Plumbing Code of Australia’ produced for all State governments by the Australian Building Codes Board.

*Editor’s note—*

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

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

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

***premises*** means—

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

***prohibited substance*** means—

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

*Examples for paragraph (a)—*

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

- (vi) contaminating the environment in places where effluent or sludge from a sewage treatment plant is discharged or reused; or

*Example paragraph (d)—*

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

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

***public sector entity***—

1 ***Public sector entity*** means—

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

2 The term includes a government owned corporation and a rail government entity under the *Transport Infrastructure Act 1994*.

3 However, the term does not include a distributor-retailer.

***QBC board*** means the Queensland Building and Construction Board established under the QBCC Act, section 10.

***QBCC*** means the Queensland Building and Construction Commission established under the QBCC Act, section 5.

***QBCC Act*** means the *Queensland Building and Construction Commission Act 1991*.

***QBCC commissioner*** means the commissioner of QBCC.

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

***relevant person***, for part 2, division 2, subdivision 3A, see section 33TD(1)(c).

***relevant service provider***, for SEQ water work, means—

- (a) if the work has been carried out, or is to be carried out, in the local government area, under the SEQ Water Act, of any of the following councils, that council—
  - (i) the Gold Coast City Council;
  - (ii) the Logan City Council;
  - (iii) the Redland City Council; or
- (b) otherwise—the distributor-retailer in whose geographic area under the SEQ Water Act the work has been carried out, or is to be carried out.

*Note—*

Paragraph (a) does not apply until 1 July 2012. See section 188.

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

***review period***, applying to conditions imposed by the QBCC commissioner or QCAT 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.

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

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

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

**SEQ region** see the *Water Act 2000*, section 341.

**SEQ Water Act** means the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

**SEQ water work** means work that—

- (a) is compliance assessable work carried out, or to be carried out, in the SEQ region; and
- (b) involves connecting to, disconnecting from or changing a connection to a relevant service provider's water infrastructure.

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

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

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

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

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

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

**show cause notice** for—

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

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

**stormwater installation**, for premises, means roof gutters, downpipes, subsoil drains and stormwater drainage for the

premises, but does not include any part of a local government's stormwater drainage.

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

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

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

**water infrastructure**, of a distributor-retailer, see the SEQ Water Act, section 53BB(1).

**water meter** means a device, including equipment related to the device, for measuring the volume of water supplied to premises.

*Example of equipment related to the device—*

a pulse meter associated with the device

**water service provider**, for premises, means the person registered under the Water Supply Act, chapter 2, part 3, as the water service provider for retail water services for the premises.

**Water Supply Act** means the *Water Supply (Safety and Reliability) Act 2008*.

**Water Supply Act connection approval** means an approval, under the Water Supply Act, to connect premises to a distributor-retailer's water infrastructure.