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Plumbers, Gasfitters, and Drainlayers Act 2006

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Commencement see section 2

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

The Act is administered by the Ministry of Business, Innovation, and Employment.

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1 Title

This Act is the Plumbers, Gasfitters, and Drainlayers Act 2006.

2 Commencement

- (1) Section 1, this section, and sections 28 to 35, 142 to 145, and 172 come into force on the day after the date on which this Act receives the Royal assent.
- (2) The rest of this Act comes into force on a date to be appointed by the Governor-General by Order in Council; and 1 or more Orders in Council may be made appointing different dates for different provisions.

Section 2(2): the rest of the Act brought into force, on 1 April 2010, by the Plumbers, Gasfitters, and Drainlayers Act Commencement Order 2010 (SR 2010/46).

Part 1

Preliminary and key provisions

Subpart 1—Preliminary provisions

3 Purposes of this Act

The purposes of this Act are—

- (a) to protect the health and safety of members of the public by ensuring the competency of persons engaged in the provision of sanitary plumbing, gasfitting, and drainlaying services; and
- (b) to regulate persons who carry out sanitary plumbing, gasfitting, and drainlaying.

4 Interpretation

In this Act, unless the context otherwise requires,—

applicable minimum standards for registration means the minimum standards for registration that—

- (a) apply in relation to the relevant class of registration; and
- (b) are prescribed under Part 2

Board means the Plumbers, Gasfitters, and Drainlayers Board continued under Part 4

chairperson means the chairperson of the Board appointed under clause 1 of Schedule 1

condition includes a restriction or limit

deputy chairperson means the deputy chairperson of the Board appointed under clause 1 of Schedule 1

distribution system has the same meaning as in section 2(1) of the Gas Act 1992

document has the same meaning as in the Official Information Act 1982

drain—

- (a) means a pipe or series of pipes constructed or laid for the conveyance of foul water, stormwater, or industrial liquid waste; but
- (b) does not include—
 - (i) a pipe or series of pipes that is vested in or under the control of or maintained by the Crown or by a local authority; or
 - (ii) an open jointed or perforated drain for the collection and removal of ground water or a downpipe for the conveyance of water from the roof of a building

drainlaying means—

- (a) laying a drain:
- (b) altering, reconstructing, extending, repairing, opening-up, or renewing a drain or a fitting connected to a drain:
- (c) fixing or unfixing a drain to or from a sewage tank:
- (d) fixing or unfixing a gully-trap or other trap in connection with a drain or sewage tank

dwellinghouse means any building or part of a building occupied as a separate dwelling

Electrical Workers Registration Board means the Electrical Workers Registration Board established under section 148 of the Electricity Act 1992

electronic transmission includes facsimile, electronic mail, or other similar means of communication

employer licence means an employer licence issued under section 62

fittings, when that word is used in connection with gas, has the same meaning as in section 2(1) of the Gas Act 1992

fixing includes installing, connecting, repairing, and altering; and **unfixing** includes removing and disconnecting

former Act means the Plumbers, Gasfitters, and Drainlayers Act 1976

foul water means any substance that is, or is intended to be, discharged from a sanitary fixture or sanitary appliance

gas has the same meaning as in section 2(1) of the Gas Act 1992

gas appliance has the same meaning as in section 2(1) of the Gas Act 1992

gas installation has the same meaning as in section 2(1) of the Gas Act 1992

gasfitting has the meaning set out in section 5

infringement fee, in relation to an infringement offence, means the amount prescribed by regulations as the infringement fee for the offence

infringement notice means a notice given under section 129

infringement offence means—

- (a) an offence under section 123:
- (b) an offence prescribed as an infringement offence

investigator, in relation to a complaint, means the person appointed under Part 3 to investigate the complaint

local authority has the same meaning as in the Local Government Act 2002

Minister means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of this Act

Ministry means the department of State that, with the authority of the Prime Minister, is responsible for the administration of this Act

pipe includes tubes, hoses, and associated fittings

practising licence means a practising licence issued under subpart 1 of Part 2

provisional licence means a provisional licence issued under section 38

register means the register kept under subpart 3 of Part 2

registered person means a person who, for the time being,—

- (a) is registered under subpart 1 of Part 2; or
- (b) is deemed to be registered under that subpart

Registrar means the Registrar of Plumbers, Gasfitters, and Drainlayers appointed under section 140

regulations means regulations in force under this Act

sanitary appliance—

- (a) means an appliance that is used, or intended to be used, for sanitation and that is not a sanitary fixture; and
- (b) includes a washing machine and a dishwasher

sanitary fixture—

- (a) means a fixture that is used, or intended to be used, for sanitation; and
- (b) includes a bath, a shower, a sink, a basin, a toilet pan, a bidet, a urinal, and a laundry tub

sanitary plumbing has the meaning set out in section 6

serious harm means—

- (a) death; or
- (b) harm that incapacitates, or is likely to incapacitate, the person suffering harm for 48 hours or more; or
- (c) harm that incapacitates, or is likely to incapacitate, the person suffering harm due to the inhalation of carbon monoxide; or
- (d) a notifiable injury or illness as defined in section 23 of the Health and Safety at Work Act 2015

supervision, in relation to any work, means that the work is undertaken under the control and direction of a person authorised under this Act to do the work or, in the case of sections 19, 21, 22, and 25, a person authorised to supervise work under those sections as is sufficient to ensure—

- (a) that the work is performed competently; and
- (b) that while the work is being undertaken, appropriate safety measures are adopted; and
- (c) that the completed work complies with the requirements of—
 - (i) regulations; and
 - (ii) in the case of sanitary plumbing or drainlaying, regulations under the Building Act 2004; and
 - (iii) in the case of gasfitting, regulations under the Gas Act 1992.

Compare: 1976 No 69 s 2

Section 4 **serious harm** paragraph (d): replaced, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

5 Meaning of gasfitting

- (1) In this Act, unless the context otherwise requires, **gasfitting** means—
 - (a) the following work to the extent that the work is downstream of the point of supply towards the point from which the gas may be consumed:
 - (i) the work of fixing or unfixing any gas pipes (including flue and ventilation pipes):

- (ii) the work of fixing or unfixing any gas installation:
 - (iii) the work of ensuring that there is adequate ventilation in relation to any gas installation:
 - (iv) the work of commissioning any gas installation and ensuring its safe operation (including, for example, the testing, setting, checking, and adjusting of safety devices, combustion conditions, and controls associated with the gas installation):
 - (v) the work of setting safety devices, combustion conditions, and controls in connection with any gas installation that are not designed to be adjusted by a consumer or gas refueller:
 - (vi) the work of recommissioning any gas installation if alteration or repair work has been done on the gas installation or its associated fittings to ensure its safe operation (including, for example, the testing, setting, checking, and adjusting of safety devices, combustion conditions, and controls associated with the gas installation):
- (b) the work of fixing or unfixing any gas installation that is attached to, and forms part of, any ship, boat, caravan, vehicle, or train.
- (2) Despite subsection (1), **gasfitting** does not include—
- (a) any fixing, unfixing, or other work on any gas storage container; or
 - (b) any fixing, unfixing, or other work on any gas transmission system, distribution system, or gas measurement system; or
 - (c) any fixing, unfixing, or other work on any portable gas appliance that is designed to have with it, or attached to it, its own gas storage container; or
 - (d) any work in any circumstances where the exclusions in section 3(2) of the Gas Act 1992 apply; or
 - (e) the adjusting of the controls of any gas appliance if the controls are designed to be adjusted by a consumer or gas refueller; or
 - (f) the work of installing any heating duct or associated fittings that does not affect combustion or combustion products; or
 - (g) any work on vapour return lines connected directly to liquefied petroleum gas storage containers.
- (3) In this section, **point of supply**, in relation to any place or in any circumstances, means the point of supply of that place or in those circumstances as prescribed by regulations made under the Gas Act 1992.
- (4) However, until the first regulation referred to in subsection (3) is made under the Gas Act 1992, **point of supply** means,—
- (a) in relation to a consumer or gas refueller, the outlet of any gas measurement system supplying the consumer or gas refueller with gas or, if there

is no such gas measurement system, the custody transfer point of the place at which gas is supplied to the consumer or gas refueller:

- (b) in relation to liquefied petroleum gas supplied from any gas storage container in the possession or control of a consumer or gas refueller, the first regulator beyond that container or, if there is no such regulator, the outlet valve of the container:
 - (c) in relation to any other gas supplied from any gas storage container in the possession or control of a consumer or gas refueller, the outlet valve of the container.
- (5) For the purposes of this section, any term or expression that is defined in the Gas Act 1992 or in regulations made under that Act and used in this section, but not defined in this Act, has the same meaning as in the Gas Act 1992 or those regulations.

6 Meaning of sanitary plumbing

- (1) In this Act, unless the context otherwise requires, **sanitary plumbing** means—
- (a) the work of fixing or unfixing any sanitary fixture or sanitary appliance, or any associated fittings or accessories:
 - (b) the work of fixing or unfixing any trap, waste or soil pipe, ventilation pipe, or overflow pipe connected with or intended to be connected with or accessory to any sanitary fixture or sanitary appliance or any drain (whether or not the sanitary fixture, sanitary appliance, or drain is there when the work is done):
 - (c) the work of fixing or unfixing any pipe that—
 - (i) supplies or is intended to be a means of supplying water to any sanitary fixture or sanitary appliance (whether or not that sanitary fixture or sanitary appliance is there when the work is done); and
 - (ii) is within the legal boundary of the premises on which that sanitary fixture or sanitary appliance is or will be installed (whether or not that sanitary fixture or sanitary appliance is there when the work is done):
 - (d) generally all plumbing work associated with any sanitary fixture or sanitary appliance.
- (2) Despite subsection (1), **sanitary plumbing** does not include—
- (a) the work of fixing or unfixing any sanitary fixture or sanitary appliance that is installed in any ship, boat, aircraft, or vehicle, or any plumbing work associated with any of those sanitary fixtures or sanitary appliances; or
 - (b) the work of fixing or unfixing a bedpan washer, a bedpan steriliser, a dishwasher, or a washing machine in any case where the fixing or unfix-

- ing of waste pipes or of pipes supplying or intended to supply water is not involved; or
- (c) the work of fixing or unfixing a pipe for reticulating water in any central heating or cooling system downstream of a testable backflow prevention device that is used exclusively for that central heating or cooling system; or
 - (d) the work of repairing or replacing taps, ball valves, tap washers, or plugs; or
 - (e) the work of fixing or unfixing any shower that is installed over a bath and that is supplied with water through the bath taps.
- (3) Despite subsection (1), **sanitary plumbing** does not include the work of fixing or unfixing any pipe in any premises (other than a building) if—
- (a) the premises was taken or otherwise acquired and is still held under the Public Works Act 1981 or any corresponding former Act; or
 - (b) section 167(4) of the Land Act 1948 applies to the premises; or
 - (c) the premises is a public reserve within the meaning of the Reserves Act 1977.

Compare: 1976 No 69 s 3

7 Act binds the Crown

This Act binds the Crown.

Subpart 2—Key provisions

Restrictions on doing or assisting with sanitary plumbing, gasfitting, and drainlaying

8 Restrictions on doing or assisting with sanitary plumbing

- (1) A person must not do any sanitary plumbing, or assist in doing any sanitary plumbing, unless that person is authorised to do so under this section.
- (2) The following persons may do sanitary plumbing, or assist in doing sanitary plumbing, within the limits prescribed in regulations (if any):
 - (a) a registered person who is authorised to do, or assist in doing, the work under a current practising licence; or
 - (b) a person who is authorised to do, or assist in doing, the work under a provisional licence.
- (3) A person does not do any sanitary plumbing, or assist in doing any sanitary plumbing, in breach of this section if that work is done in accordance with sections 12 to 27.
- (4) Subsection (1) is subject to subsection (3) and sections 11 to 27.

9 Restrictions on doing or assisting with gasfitting

- (1) A person must not do any gasfitting, or assist in doing any gasfitting, unless that person is authorised to do so under this section.
- (2) The following persons may do gasfitting, or assist in doing gasfitting, within the limits prescribed in regulations (if any):
 - (a) a registered person who is authorised to do, or assist in doing, the work under a current practising licence; or
 - (b) a person who is authorised to do, or assist in doing, the work under a provisional licence; or
 - (c) a person who is authorised to do, or assist in doing, the work under an employer licence.
- (3) A person does not do any gasfitting, or assist in doing any gasfitting, in breach of this section if that work is done in accordance with sections 12 to 27.
- (4) Subsection (1) is subject to subsection (3) and sections 11 to 27.

10 Restrictions on doing or assisting with drainlaying

- (1) A person must not do any drainlaying, or assist in doing any drainlaying, unless that person is authorised to do so under this section.
- (2) The following persons may do drainlaying, or assist in doing drainlaying, within the limits prescribed in regulations (if any):
 - (a) a registered person who is authorised to do, or assist in doing, the work under a current practising licence; or
 - (b) a person who is authorised to do, or assist in doing, the work under a provisional licence.
- (3) A person does not do any drainlaying, or assist in doing any drainlaying, in breach of this section if that work is done in accordance with sections 12 to 27.
- (4) Subsection (1) is subject to subsection (3) and sections 11 to 27.

11 Body corporate does not breach restriction if work is actually done by authorised natural person

A body corporate that is responsible for any sanitary plumbing, gasfitting, or drainlaying does not do that work, or assist in doing that work, in breach of sections 8 to 10 if the natural person or natural persons who actually do, or assist in doing, that work are authorised to do so under this Act.

General exemptions

12 Board may exempt person or class of persons from sections 8 to 10

- (1) The Board may, if it thinks fit, by notice in the *Gazette*, exempt any person or class of persons from compliance with any of sections 8 to 10 generally or in relation to a particular type of sanitary plumbing, gasfitting, or drainlaying.

- (2) The Board may grant the exemption subject to any terms and conditions that it thinks fit.
- (3) A person may do any sanitary plumbing, gasfitting, or drainlaying, or assist in doing any sanitary plumbing, gasfitting, or drainlaying, under an exemption granted under subsection (1) if—
 - (a) the work is within the limits specified in the exemption; and
 - (b) the exemption applies to the person; and
 - (c) the work is done in accordance with the terms and conditions of the exemption; and
 - (d) the work is carried out in a competent and safe manner.
- (4) A notice published under this section is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

Section 12(4): replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

13 Exemption for trainees

- (1) A person may do, or assist in doing, any sanitary plumbing, gasfitting, or drainlaying if—
 - (a) the person is a trainee in relation to the work; and
 - (b) the work done by that person is carried out in accordance with a limited certificate issued by the Board to the trainee under section 14.
- (2) In this section, **trainee**—
 - (a) means a person who is undergoing instruction or training in any class of sanitary plumbing, gasfitting, or drainlaying work for the purpose of obtaining registration as a registered person; and
 - (b) includes an apprentice who is working in 1 or more of the following trades:
 - (i) the gasfitting trade;
 - (ii) the plumbing trade;
 - (iii) the drainlaying trade.
- (3) This section does not prevent a trainee from doing, or assisting in doing, work under any of sections 19, 21, or 25 (which allow work to be done under supervision).

14 Board may issue limited certificate for purposes of section 13

- (1) The Board may, on payment of the prescribed fee (if any), issue to any person a limited certificate for the purposes of section 13.
- (2) The Board may issue the limited certificate subject to any terms and conditions that the Board thinks fit.

- (3) The Board may, by written notice to a person, revoke, amend, or add to any term or condition imposed in relation to that person's certificate.
- (4) A limited certificate issued under this section, unless it is sooner cancelled, is in force for the period, not exceeding 5 years, specified in the certificate, but it may from time to time be renewed for a further term not exceeding 5 years.
- (5) The Board may, if it thinks fit, refuse to renew any limited certificate.
- (6) A limited certificate issued under this section may be cancelled by the Board—
 - (a) if the Board considers that any of the terms or conditions of the certificate have not been met; or
 - (b) following the determination of an application for registration as a registered person or for a practising licence.

Specific sanitary plumbing exemptions

15 Exemption for householders

- (1) The owner of any premises situated in a place to which this subsection applies and occupied, or intended to be occupied, by that person as a residence for that person, or for that person and members of that person's family, may do any sanitary plumbing in those premises.
- (2) The sanitary plumbing done under subsection (1) may be done—
 - (a) with or without the assistance of any member of the person's family living with the person; but
 - (b) without the assistance of any other person.
- (3) For the purposes of subsection (1), **owner**, in relation to any premises, means the person who (whether alone or as a joint tenant or tenant in common) would for the time being be entitled to receive the rack rent of the premises on his or her own account if the premises were let to a tenant at a rack rent.
- (4) Subsection (1) applies in the places that the Minister, after consultation with the appropriate local authority, specifies by notice in the *Gazette*.
- (5) Subsection (1) applies despite any bylaw that requires sanitary plumbing to be done only by specified persons or classes of persons.
- (6) Neither subsection (1) nor section 17 prohibits any person from completing any sanitary plumbing that the person has lawfully commenced.

Compare: 1976 No 69 s 54

16 Exemption for sanitary plumbing in areas in rural districts

- (1) The Minister may, by notice in the *Gazette*, designate any area, other than an area that forms part of a city, a borough, or a town district, as an area where sanitary plumbing may be done by any person.
- (2) A person may do any sanitary plumbing in any area in respect of which a notice given under subsection (1) is in force.

- (3) The Minister must consult with the appropriate local authority before he or she—
- (a) issues a notice under subsection (1); or
 - (b) varies or revokes a notice.
- (4) A person is not prevented from completing any sanitary plumbing that he or she has lawfully commenced by—
- (a) the variation or revocation of a notice under this section; or
 - (b) section 17.

Compare: 1976 No 69 s 55

17 Provisions relating to alteration of boundaries of local authority districts

- (1) If the whole or any part of the district of any local authority in which section 15(1) or 16(1) is in force is included within the district of any other local authority, that subsection, or those subsections, ceases or cease to apply to the district or part of the district so included unless—
- (a) that subsection, or those subsections, is or are in force in the district of the last-mentioned local authority; or
 - (b) the Order in Council under section 25A of the Local Government Act 2002 specifies that the subsection, or those subsections, is or are to continue in force in the first-mentioned district or part of the district.
- (2) If the whole or any part of the district of a local authority is included within the district of any other local authority to which section 15(1) or 16(1) is in force then, unless the Order in Council under section 25A of the Local Government Act 2002 otherwise provides, that subsection, or those subsections, comes or come into force in the district or part of the district so included on the date on which the relevant reorganisation implementation scheme becomes operative.

Compare: 1976 No 69 s 56

Section 17(1)(b): amended, on 22 October 2019, by section 43 of the Local Government Act 2002 Amendment Act 2019 (2019 No 54).

Section 17(1)(b): amended, on 5 December 2012, by section 43 of the Local Government Act 2002 Amendment Act 2012 (2012 No 93).

Section 17(2): amended, on 22 October 2019, by section 43 of the Local Government Act 2002 Amendment Act 2019 (2019 No 54).

Section 17(2): amended, on 5 December 2012, by section 43 of the Local Government Act 2002 Amendment Act 2012 (2012 No 93).

18 Exemption for installing and maintaining particular sanitary plumbing equipment

A person who satisfies the Board, whether by examination or otherwise, that the person is competent to install and maintain particular sanitary plumbing equipment or sanitary plumbing equipment of a particular kind may do the following work or have the work done by some other person acting under the person's supervision:

- (a) install and maintain in any industrial or commercial premises the equipment or equipment of a kind specified in writing by the Board as equipment of a kind that may be installed and maintained by the person; and
- (b) fix or unfix pipes for the purposes of that installation and maintenance.

Compare: 1976 No 69 s 56A

19 Exemption for sanitary plumbing under supervision

A person may do, or assist in doing, any sanitary plumbing if—

- (a) the work done by that person is carried out under the supervision of a person who—
 - (i) holds a current practising licence that authorises the person to supervise the work; or
 - (ii) is authorised to supervise the work under section 18; and
- (b) the work is tested by the person who supervises the work to ensure—
 - (i) that the work has been performed competently; and
 - (ii) that the completed work complies with the requirements of regulations under this Act and regulations under the Building Act 2004.

Specific gasfitting exemptions

20 Board may authorise person to carry out or supervise gasfitting

- (1) The Board may authorise a person to do any or all of the matters set out in subsection (2) if the Board is satisfied that the person (whether by examination or otherwise) is—
 - (a) competent to install and maintain particular fittings or gas appliances, or fittings or gas appliances of a particular kind; or
 - (b) competent to supervise persons doing particular gasfitting, to test and certify particular work, and to connect the work to a supply of gas, in accordance with section 21.
- (2) For the purposes of subsection (1), the matters are—
 - (a) to install and maintain any fittings or gas appliances to which subsection (1)(a) applies or to have that work done by some other person acting under the person's supervision;
 - (b) to carry out any other gasfitting for the purposes of subsection (1)(a) or to have that work done by some other person acting under the person's supervision;
 - (c) to supervise, test and certify, and connect particular work, in accordance with section 21.

- (3) The Board may place time limits on the authorisation, impose any other reasonable conditions on the authorisation, and revoke the authorisation if those conditions are not complied with.

Compare: 1976 No 69 s 57(1)

21 Exemption for gasfitting under supervision

A person may do, or assist in doing, any gasfitting if—

- (a) the work done by that person is carried out under the supervision of a person who—
- (i) holds a current practising licence that authorises the person to supervise the work; or
 - (ii) is authorised to supervise the work under section 20; and
- (b) while that work is done, no pipe or appliance in respect of which that work is done is connected to any supply of gas; and
- (c) the work is—
- (i) tested and certified in accordance with regulations made under section 54 of the Gas Act 1992; and
 - (ii) connected to a supply of gas by the person who supervises the work.

Compare: 1976 No 69 s 57(5)

22 Exemption for work on certain gas installations

A person may do, or assist in doing, gasfitting on industrial premises that have a design capacity for energy consumption by gas installations of more than 60 000 megajoules per hour if the person in charge of the industrial plant on those premises maintains at all times a system of operation that is sufficient to ensure that persons who do, or assist in doing, gasfitting on those premises—

- (a) are competent to carry out the range of work for which they are employed or contracted to carry out; and
- (b) are supervised by a person or persons who are authorised by the person in charge of the industrial plant on those premises to supervise work on those premises.

23 Exemption for underground pipes conveying gas to premises

A person may fix or unfix any pipe conveying, or intended to convey, gas if—

- (a) that pipe is installed underground from the outlet connection of a gas meter to any premises; and
- (b) the person has obtained the prior approval of any gas operator (within the meaning of the Gas Act 1992) supplying that gas to those premises.

Compare: 1976 No 69 s 57(4)

24 Exemption for fixing of water heaters by gasfitters

- (1) A person may do, or assist in doing, the work described in subsection (2) if—
 - (a) the person holds a current practising licence issued under Part 2 that authorises the person to do, or assist in doing, gasfitting; and
 - (b) the person satisfies the Board, by examination or otherwise, that the person is competent to perform the work described in subsection (2); and
 - (c) that work is performed in circumstances in which a person who holds a current practising licence issued under Part 2 that authorises that person to do sanitary plumbing is authorised to do that work.
- (2) The work that may be done under this section is the fixing or unfixing of—
 - (a) a gas water heater; or
 - (b) any pipe that supplies, or is intended to supply, water to a gas water heater or hot water from a gas water heater to any fitting or appliance, whether or not any fitting or appliance is there when the work is done.

Compare: 1976 No 69 s 53

Specific drainlaying exemption

25 Exemption for drainlaying under supervision

A person may do, or assist in doing, any drainlaying if—

- (a) the work done by that person is carried out under the supervision of a person who holds a current practising licence that authorises the person to supervise the work; and
- (b) the work is tested by the person who supervises the work to ensure—
 - (i) that the work has been performed competently; and
 - (ii) that the completed work complies with the requirements of regulations under this Act and regulations under the Building Act 2004.

Miscellaneous provisions concerning exemptions

26 Board may cancel application of exemption to any person

- (1) The Board may, by notice in writing to a person, cancel the application of any exemption under sections 13 to 25 to the person from a date specified in the notice.
- (2) The exemption referred to in the notice under subsection (1) ceases to apply to the person from the date specified in the notice.
- (3) The Board may not cancel the application of an exemption under subsection (1) unless it has first—
 - (a) informed the person concerned why it may cancel the application of the exemption; and

- (b) given the person a reasonable opportunity to make written submissions and be heard on the question, either personally or by his or her representative.

27 Work done under exemptions must be done in accordance with regulations

- (1) Work done under sections 13 to 25 must be done within the limits prescribed by regulations (if any).
- (2) An exemption under sections 13 to 25 does not apply if subsection (1) is not complied with.

Part 2

Registration and licensing of plumbers, gasfitters, and drainlayers

Subpart 1—Plumber, gasfitter, and drainlayer registration and licensing

Classes of registration

28 Classes of registration may be designated by Board

- (1) The Board may, by notice in the *Gazette*,—
 - (a) designate classes of registration for the purposes of this subpart; and
 - (b) specify for each of those classes the sanitary plumbing, gasfitting, or drainlaying that a person is authorised to do, or assist in doing, by virtue of being a registered person of a particular class and holding a current practising licence.
- (2) The notice may describe the classes of registration in any way the Board thinks fit, including in 1 or more of the following ways:
 - (a) by reference to a name or form of words that is commonly understood by persons who carry out plumbing, gasfitting, or drainlaying;
 - (b) by reference to an area of science or learning;
 - (c) by reference to tasks commonly performed.
- (3) In specifying the work that may be carried out by registered persons who hold current practising licences, the Board may impose limitations on the circumstances in which a registered person may do, or assist in doing, that work.
- (4) For the purposes of this section and sections 29 to 35 and 142 to 145, **Board** means the Plumbers, Gasfitters, and Drainlayers Board (whether constituted under the former Act or continued under Part 4).

29 Board must consider designating classes of registration that replace or correspond to types of registration under former Act

- (1) The Board must, as soon as practicable after the commencement of this section, consider whether it should designate, in relation to each of the following types of registration under the former Act, 1 or more classes of registration under

section 28 that, with or without modification, replace, or correspond to, that type of registration:

- (a) craftsman plumber:
 - (b) craftsman gasfitter:
 - (c) gas inspector:
 - (d) registered plumber:
 - (e) registered gasfitter:
 - (f) registered drainlayer.
- (2) The Board must consult with the following persons in relation to the matter specified in subsection (1):
- (a) persons who the Board considers are able to represent the views of plumbers, gasfitters, or drainlayers, or of classes of plumbers, gasfitters, or drainlayers, registered under this Part or the former Act; and
 - (b) organisations—
 - (i) that the Board considers will be substantially affected by the Board's decision on the matter; or
 - (ii) whose members the Board considers will be substantially affected by the Board's decision on the matter.
- (3) This section does not limit sections 28 and 30 to 35.

30 Board may prescribe other registration and licensing matters

- (1) The Board may, by notice in the *Gazette*,—
- (a) prescribe for each class of registration the minimum standards for registration (including standards relating to required competence, qualifications, and experience) that persons must meet in order to be registered as registered persons and to be issued with practising licences; and
 - (b) prescribe for each class of registration the terms and conditions subject to which persons are registered as registered persons; and
 - (c) prescribe for each class of registration the terms and conditions subject to which practising licences are issued; and
 - (d) prescribe requirements relating to competent and safe work practices and the testing of those practices; and
 - (e) prescribe requirements relating to the completion of competence programmes in respect of persons who—
 - (i) apply for practising licences or provisional licences; or
 - (ii) hold practising licences or provisional licences; or
 - (iii) apply for renewals of practising licences or provisional licences; and

- (f) recognise any overseas qualification, certificate, registration, or licence as satisfying a particular minimum standard for registration (in whole or in part) if, in the opinion of the Board, that overseas qualification, certificate, registration, or licence is equivalent to, or as satisfactory as, the standard, or part of the standard, that is treated as being satisfied.
- (2) The terms and conditions referred to in subsection (1)(c) may include, for example,—
- (a) a term that authorises the person to test or certify work or to supervise work:
 - (b) a condition that requires compliance with the requirements referred to in subsection (1)(d):
 - (c) a condition that requires the person to complete a competence programme:
 - (d) a condition that imposes limitations on the circumstances in which the person may do, or assist in doing, work:
 - (e) a condition that imposes limits on the work that the person may do, or assist in doing, under the practising licence.
- (3) The Board may make arrangements with the appropriate authorities controlling the registration, licensing, or recognition of sanitary plumbers, gasfitters, or drainlayers outside New Zealand for the reciprocal recognition of registration, licences, certificates, or other evidence of proficiency in sanitary plumbing, gasfitting, or drainlaying.

31 Minimum standards for registration

- (1) A notice under section 30 may prescribe minimum standards for registration in any way the Board thinks fit, including in 1 or more of the following ways:
- (a) by requiring a degree or diploma or certificate of a stated kind recognised by the Board:
 - (b) by requiring the successful completion of a competence programme, degree, course of studies, or programme accredited by the Board:
 - (c) by requiring a pass in a specified examination or any other assessment set by the Board or by another organisation approved by the Board:
 - (d) by reference to registration with, or a licence issued by, an overseas organisation that performs functions that correspond wholly or partly to those performed by the Board:
 - (e) by requiring experience in the provision of services of a particular kind:
 - (f) by requiring a certain level of competence.
- (2) However, the minimum standards for registration prescribed under section 30 may require a person to pass a specified examination or other assessment set by the Board only if the Board is satisfied that the person does not have a degree,

diploma, or certificate of a stated kind recognised by the Board under subsection (1)(a).

32 Principles guiding prescribing of registration and licensing matters

In prescribing matters under sections 28 and 30, the Board must be guided by the following principles:

- (a) the matters must be necessary to—
 - (i) protect the health or safety of members of the public; or
 - (ii) promote the prevention of damage to property; or
 - (iii) promote the competency of persons who do, or assist in doing, sanitary plumbing, gasfitting, or drainlaying; or
 - (iv) carry out, give effect to, or provide for a matter that is incidental to, or consequential on, the matters relating to subparagraph (i), (ii), or (iii); and
- (b) the matters may not unnecessarily restrict the registration or licensing of persons as plumbers, gasfitters, or drainlayers; and
- (c) the matters may not impose undue costs on plumbers, gasfitters, or drainlayers, or on the public.

33 Board must consult before publishing notices

- (1) Before the Board publishes a notice under section 28 or 30(1)(a) to (e), the Board must have consulted about its proposal for the contents of the notice—
 - (a) with persons who the Board considers are able to represent the views of plumbers, gasfitters, or drainlayers, or of classes of plumbers, gasfitters, or drainlayers, registered under this Part or the former Act; and
 - (b) with organisations—
 - (i) that the Board considers will be substantially affected by the proposal; or
 - (ii) whose members the Board considers will be substantially affected by the proposal.
- (2) A failure to comply with subsection (1) does not affect the validity of any notice published under section 28 or 30(1)(a) to (e).

34 Notices published under sections 28 and 30 must be approved by Minister

- (1) The Board must, before publishing a notice under section 28 or 30, submit the proposed notice for the approval of the Minister.
- (2) The Minister must, as soon as practicable after receiving a proposed notice under subsection (1), by written notice to the Board,—
 - (a) approve it; or
 - (b) decline to approve it.

- (3) If the Minister declines to approve a proposed notice,—
- (a) the Minister must indicate the grounds on which he or she declines to approve it; and
 - (b) the Minister may direct the Board to prepare and submit a revised proposed notice; and
 - (c) the Board must, as soon as practicable after receiving a direction under paragraph (b), submit a revised proposed notice under subsection (1).
- (4) A proposed notice may be published under section 28 or 30 after it is approved by the Minister.

35 Other provisions relating to notices under sections 28 and 30

- (1) The Board must ensure that an up-to-date version of each notice that the Board has published under section 28 or 30 is—
- (a) available at all reasonable times on an Internet website maintained by or on behalf of the Board; and
 - (b) available at the office of the Board during business hours, so that members of the public may—
 - (i) inspect the notice free of charge; or
 - (ii) obtain a copy of the notice for a reasonable fee.
- (2) A notice published under section 28 or 30 is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

Section 35(2): replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

How to become registered

36 Entitlement to registration

An individual is entitled to be registered under this subpart if the individual satisfies the Board—

- (a) that he or she has complied with the application requirements in section 37; and
- (b) that he or she meets the applicable minimum standards for registration; and
- (c) that he or she is not precluded from being registered because of any action taken by the Board under section 106; and
- (d) that he or she is a fit and proper person to be registered under this subpart; and
- (e) that he or she has paid the prescribed fee (if any).

37 Applications for registration

- (1) An application for registration under this subpart must—
 - (a) be sent or delivered to either—
 - (i) the Registrar; or
 - (ii) the Electrical Workers Registration Board if the application is to be considered by that Board under section 61; and
 - (b) be in the form required by the Board; and
 - (c) contain, or be accompanied by, the information and documentation required by the Board; and
 - (d) be accompanied by the prescribed fee (if any).
- (2) The Registrar must refer any applications received by the Registrar under this section to the Board for consideration under section 40.

38 Registrar may issue provisional licence pending consideration of application

- (1) The Registrar may, on payment of the prescribed fee (if any), issue to any person a provisional licence to carry out any specified sanitary plumbing, gasfitting, or drainlaying.
- (2) The Registrar may issue the provisional licence subject to any terms and conditions that the Registrar thinks fit.
- (3) A provisional licence authorises the holder, while the licence is in force pending the consideration of his or her application for registration or a practising licence (or both) under this subpart, to do, or assist in doing, the work that is specified in the licence.

39 Duration of provisional licence

- (1) A provisional licence, unless it is sooner suspended or cancelled, is in force for the period, not exceeding 12 months, specified in the licence, but it may from time to time be renewed for a further period not exceeding 12 months.
- (2) The Registrar may, if he or she thinks fit, refuse to renew any provisional licence.
- (3) A provisional licence may be cancelled—
 - (a) by the Board in any of the ways described in section 57(1); or
 - (b) by the Registrar, if the Registrar considers that any of the terms or conditions of the licence have not been met; or
 - (c) by the Registrar following the determination of an application for registration or a practising licence under this subpart.

40 Board to consider application

- (1) The Board must consider each application for registration under this subpart as soon as practicable after receiving it.
- (2) In considering an application for registration under this subpart, the Board must,—
 - (a) if the applicant has previously had his or her registration or practising licence cancelled under this Act, have regard to the reasons for that cancellation; and
 - (b) observe the rules of natural justice; and
 - (c) without limiting those rules, give the applicant—
 - (i) notice of any matter that might result in the application being declined; and
 - (ii) a reasonable opportunity to make submissions to the Board on the matter.

41 Board to register applicant or decline application

- (1) If the Board is satisfied that the applicant is entitled, under section 36, to be registered under this subpart, the Board must direct the Registrar to—
 - (a) register the applicant as a registered person of a particular class; and
 - (b) send to the applicant a certificate of registration; and
 - (c) enter details of that person's registration in the register; and
 - (d) issue a unique identifier (for example, a registration number) to the applicant, and notify the applicant of that identifier.
- (2) If the Board is not satisfied that the applicant is entitled to be registered under this subpart, the Board must notify the applicant of—
 - (a) the Board's decision; and
 - (b) the applicant's right of appeal to the District Court against the decision.
- (3) As soon as practicable after receiving the Board's direction under subsection (1), the Registrar must enter the details of the registration in the register.

Section 41(2)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

42 Registration subject to terms and conditions

- (1) The registration of a registered person is subject to—
 - (a) the terms and conditions imposed by notices published under section 30(1)(b) in relation to the class of registration concerned; and
 - (b) any other terms and conditions that the Board thinks fit.
- (2) The Board may, by written notice to a registered person, revoke, amend, or add to any term or condition imposed under subsection (1).

- (3) Subsection (1)(a) is subject to subsection (2) and section 52.

How to become licensed

43 Practising licence required

- (1) A registered person is not authorised to do, or assist in doing, sanitary plumbing, gasfitting, or drainlaying work that the person is otherwise authorised to do by virtue of that person's registration unless that person is the holder of a current practising licence that authorises the person to do, or assist in doing, the work.
- (2) Subsection (1) is subject to sections 12 to 27.
- (3) Any authority given under a practising licence to a registered person to do, or assist in doing, any sanitary plumbing, gasfitting, or drainlaying work is sufficient authority for the person so authorised to do or, as the case may be, assist in doing that work.
- (4) Subsection (3) is subject to the terms and conditions imposed under section 48 and to any regulations.

44 Entitlement to practising licence

A registered person is entitled to be issued with a practising licence under this subpart for a class of registration in respect of which that person is registered if the individual satisfies the Board—

- (a) that he or she has complied with the application requirements in section 45; and
- (b) that he or she meets the current applicable minimum standards for registration; and
- (c) that he or she is not precluded from holding a licence because of any action taken by the Board under section 106; and
- (d) that he or she is a fit and proper person to be issued with a practising licence; and
- (e) that he or she has paid the prescribed fee (if any).

45 Applications for practising licence

- (1) An application for a practising licence under this subpart must—
- (a) be sent or delivered to either—
- (i) the Registrar; or
- (ii) the Electrical Workers Registration Board if the application is to be considered by that Board under section 61; and
- (b) be in the form required by the Board; and
- (c) contain, or be accompanied by, the information and documentation required by the Board; and

- (d) be accompanied by the prescribed fee (if any).
- (2) The Registrar must refer any application received by the Registrar under this section to the Board for consideration under section 46.

46 Board to consider application

- (1) The Board must consider each application for a practising licence under this subpart as soon as practicable after receiving it.
- (2) In considering an application for a practising licence under this subpart, the Board must,—
 - (a) if the applicant has previously had his or her registration or practising licence cancelled under this Act, have regard to the reasons for that cancellation; and
 - (b) observe the rules of natural justice; and
 - (c) without limiting those rules, give the applicant—
 - (i) notice of any matter that might result in the application being declined; and
 - (ii) a reasonable opportunity to make submissions to the Board on the matter.

47 Board to issue practising licence or decline application

- (1) If the Board is satisfied that the applicant is entitled, under section 44, to be issued with a practising licence under this subpart, the Board must—
 - (a) issue to the applicant a practising licence for a class of registration in respect of which that person is registered; and
 - (b) send to the applicant evidence of the issue of that practising licence; and
 - (c) direct the Registrar to enter details of that person's practising licence in the register.
- (2) If the Board is not satisfied that the applicant is entitled to be issued with a practising licence under this subpart, the Board must notify the applicant of—
 - (a) the Board's decision; and
 - (b) the applicant's right of appeal to the District Court against the decision.
- (3) As soon as practicable after receiving the Board's direction under subsection (1), the Registrar must enter the details of the practising licence in the register.

Section 47(2)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

48 Practising licence subject to terms and conditions

- (1) A practising licence issued to a registered person is subject to—
 - (a) the terms and conditions imposed by notices published under section 30(1)(c) in relation to the class of registration concerned; and

- (b) any other terms and conditions that the Board thinks fit.
- (2) The terms and conditions may include, for example,—
 - (a) terms and conditions of the kind referred to in section 30(2):
 - (b) a condition that imposes limits on the circumstances in which the particular practising licence holder may do, or assist in doing, work:
 - (c) a condition that imposes limits on the work that the particular practising licence holder may do, or assist in doing, under the licence.
- (3) The conditions referred to in subsection (2)(b) and (c) may be in addition to, or instead of, any other limits that would otherwise apply in respect of the class of registration concerned.
- (4) The Board may, by written notice to a registered person, revoke, amend, or add to any term or condition imposed under subsection (1).
- (5) Subsection (1)(a) is subject to subsection (4) and section 52.

Duration and renewal of practising licence

49 Duration of practising licence

- (1) A practising licence issued under this subpart must specify the date of its expiry.
- (2) The date of expiry must not be later than 5 years after the date of the issue or renewal of the practising licence.
- (3) A practising licence continues in force until the close of the date of its expiry unless sooner suspended or cancelled under this Act.

50 Applications for renewal of practising licence

- (1) An application for the renewal of a practising licence under this subpart—
 - (a) must not be made earlier than 3 months before the licence's date of expiry; and
 - (b) must be sent or delivered to either—
 - (i) the Registrar; or
 - (ii) the Electrical Workers Registration Board if the application is to be considered by that Board under section 61; and
 - (c) must be in the form required by the Board; and
 - (d) must contain, or be accompanied by, the information and documentation required by the Board; and
 - (e) must be accompanied by the prescribed fee (if any).
- (2) The Registrar must refer any application received by the Registrar under this section to the Board for consideration under section 51.

- (3) If an application for the renewal of a practising licence is made before the licence's date of expiry but the licence has not been renewed before that date, the licence continues in force until the application is determined.

51 Renewal of practising licence

- (1) A registered person is entitled to a renewal of his or her practising licence if the Board is satisfied that—
- (a) the person has complied with the application requirements in section 50; and
 - (b) the person complies with the current applicable minimum standards for registration; and
 - (c) there is no reason to believe that the person has breached any term or condition of the licence during the period before the licence is renewed; and
 - (d) the person is a fit and proper person to hold a practising licence; and
 - (e) the person has satisfied the requirements of a competence programme that the person is required to complete under subsection (5).
- (2) If the Board is satisfied that the registered person is entitled to a renewal of his or her practising licence, the Board must direct the Registrar to—
- (a) renew the licence for the period (not exceeding 5 years) that the Board thinks fit; and
 - (b) send to the person notification of the Board's decision; and
 - (c) enter details of the renewal in the register.
- (3) If the Board is not satisfied that the registered person is entitled to a renewal of his or her practising licence, the Board must notify the person of—
- (a) the Board's decision; and
 - (b) the person's right of appeal to the District Court against the decision.
- (4) For the purposes of subsection (1)(c), the Board may, if it thinks fit, disregard a breach of a term or condition of the practising licence.
- (5) The Board may require a registered person to complete a competence programme before it renews that person's practising licence (regardless of whether or not the Board is satisfied of the matters referred to in subsection (1)(a) to (d)) if the person is required to complete a competence programme when applying for a renewal of the licence in accordance with a condition or requirement imposed by a notice published under section 30.
- (6) Despite subsection (1), if any fee or other money payable to the Board under this Act by the registered person has not been paid, the Board may refuse to renew that person's practising licence until that fee or other money is paid.

Section 51(3)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Exemptions from registration and licensing requirements and conditions

52 Board may grant exemptions from registration and licence requirements and conditions

- (1) The Board may,—
 - (a) by written notice to a person, exempt the person from compliance with—
 - (i) the minimum standards for registration that the person must meet in order to be registered as a registered person or issued with a practising licence or to obtain a renewal of a practising licence; and
 - (ii) any terms and conditions imposed by notices published under section 30 that must be complied with by the person; and
 - (b) by notice in the *Gazette*, exempt any class of persons from compliance with—
 - (i) the minimum standards for registration that those persons must meet in order to be registered as registered persons or issued with practising licences or to obtain renewals of practising licences; and
 - (ii) the terms and conditions imposed by notices published under section 30 that must be complied with by those persons.
- (2) The Board may grant an exemption subject to any terms and conditions that it thinks fit.
- (3) A notice published in the *Gazette* under this section is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

Section 52(3): replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

Competence

53 Review of registered person's competence

- (1) The Board may, at any time, review the competence of a registered person to do, or assist in doing, sanitary plumbing, gasfitting, or drainlaying work, whether or not there is reason to believe that the person's competence may be deficient.
- (2) In conducting a review under subsection (1), the Board must consider the following matters:
 - (a) whether, in the Board's opinion, the registered person meets the current applicable minimum standards for registration; and

- (b) whether, in the Board's opinion, there is any reason to believe that the registered person may endanger the health or safety of members of the public; and
- (c) whether, in the Board's opinion, the registered person has carried out, or caused to be carried out, sanitary plumbing, gasfitting, or drainlaying work to the standard reasonably to be expected of a registered person of the same class of registration as the registered person concerned.

54 Procedure on review of competence

- (1) The form of a review under section 53 is at the Board's discretion.
- (2) However, in conducting the review, the Board must give the person concerned—
 - (a) the particulars that are reasonably necessary to clearly inform the person of the substance of the grounds (if any) on which the Board has decided to carry out the review; and
 - (b) a reasonable opportunity to make written submissions and be heard on the question, either personally or by his or her representative.
- (3) If, after conducting a review under section 53, the Board has reason to believe that the competence of a registered person is deficient, the Board may make either or both of the following orders:
 - (a) that the registered person undertake a competence programme;
 - (b) that 1 or more conditions be placed on the registered person's practising licence.
- (4) The Registrar must ensure that, within 5 working days of the making of an order under subsection (3), a copy of the order is given to the person concerned.
- (5) An order made under subsection (3) takes effect from the day on which a copy of the order is given to the person concerned or from any date that is specified in the order, whichever is the later.

55 Competence programmes

- (1) For the purpose of examining or improving the competence of persons who do, or assist in doing, sanitary plumbing, gasfitting, or drainlaying work, the Board may set or recognise competence programmes in respect of persons who—
 - (a) apply for practising licences or provisional licences; or
 - (b) hold practising licences or provisional licences; or
 - (c) apply for renewals of practising licences or provisional licences.
- (2) Any competence programme may be made to apply generally in respect of all of those persons, or in respect of a specified person, or in respect of any specified class of those persons.

- (3) However, a registered person may be required by the Board to complete a competence programme only if 1 or more of the following applies:
 - (a) the registration of the person or the practising licence held by the person is subject to a condition imposed by a notice published under section 30 that requires the person to complete a competence programme; or
 - (b) the person is required to complete a competence programme in accordance with an applicable minimum standard for registration; or
 - (c) the person is required to complete a competence programme in accordance with a requirement imposed by a notice published under section 30(1)(e); or
 - (d) the person is required to complete a competence programme under section 54 (which relates to a review of a person's competence) or Part 3 (which relates to discipline).
- (4) Any competence programme may require a person to do 1 or more of the following, within the period, or at the intervals, prescribed in the programme:
 - (a) pass an examination:
 - (b) complete a period of practical training:
 - (c) complete a period of practical experience:
 - (d) undertake a course of studies:
 - (e) anything else that the Board considers appropriate.
- (5) The Board may specify a period within which the person to whom a competence programme applies must comply with the requirements of the programme.
- (6) The Board may exempt any person or class of persons from all or any of the requirements of a competence programme.

56 Unsatisfactory results of competence programme

- (1) If any person who is required to complete a competence programme does not satisfy the requirements of the programme, the Board may make 1 or more of the following orders:
 - (a) that the person's practising licence or provisional licence be subject to any condition that the Board considers appropriate:
 - (b) that the person's practising licence or provisional licence be suspended:
 - (c) that the person's application for a renewal of a practising licence or provisional licence be declined.
- (2) The Board may not suspend a licence under subsection (1) unless it has first—
 - (a) informed the person concerned why it may suspend the licence of that person; and

- (b) given the person a reasonable opportunity to make written submissions and be heard on the question, either personally or by his or her representative.
- (3) The Registrar must ensure that a copy of the order made under subsection (1) is given to the person concerned.
- (4) An order made under subsection (1) takes effect from the day on which a copy of the order is given to the person concerned or from any date that is specified in the order, whichever is the later.
- (5) Any order made under subsection (1)(a) or (b) remains in effect until the time that the person concerned has satisfied all the requirements of the competence programme, and for that purpose the Board may extend the period within which the person is required to satisfy those requirements.

Cancellation and suspension

57 Cancellation and suspension generally

- (1) The Board may cancel a person's registration, practising licence, or provisional licence—
 - (a) if the person, by written notice, requests that the Board do so; or
 - (b) if the Board believes on reasonable grounds that the person has died; or
 - (c) in accordance with section 59 (which concerns the cancellation of registration or of a licence if the registration or licence was obtained wrongfully); or
 - (d) in accordance with section 60 (which concerns the cancellation or suspension of an overseas qualification, certificate, registration, or licence); or
 - (e) in accordance with section 78 (which concerns the revision of the register); or
 - (f) in accordance with Part 3 (which concerns disciplinary proceedings).
- (2) If a person's registration is cancelled, the practising licence held by the person for the class of registration concerned (if any) is also cancelled.
- (3) The Board may suspend—
 - (a) a person's registration—
 - (i) in accordance with section 60 (which concerns the cancellation or suspension of an overseas qualification, certificate, registration, or licence); or
 - (ii) in accordance with Part 3 (which concerns disciplinary proceedings):
 - (b) a person's practising licence or provisional licence—
 - (i) in accordance with section 56 (which concerns competence); or

- (ii) in accordance with section 60 (which concerns the cancellation or suspension of an overseas qualification, certificate, registration, or licence); or
 - (iii) in accordance with Part 3 (which concerns disciplinary proceedings).
- (4) The cancellation or suspension of the registration, practising licence, or provisional licence of a person under this Act does not affect that person's liability for any act or default occurring before the cancellation or suspension.
- (5) If a person is registered under this Part in respect of more than 1 class of registration, the Board may exercise its powers to cancel or suspend registration or a practising licence under this Act in respect of each of those classes or 1 or more of those classes as the Board thinks fit.

58 Effect of suspension

- (1) If a person's registration is suspended,—
 - (a) the person is not a registered person, for the class of registration concerned, for the period during which the registration is suspended; and
 - (b) the practising licence held by the person for the class of registration concerned (if any) is also suspended for the period during which the registration is suspended.
- (2) If a person's practising licence is suspended, the person—
 - (a) is not the holder of a current practising licence, for the class of registration concerned, for the period during which the licence is suspended; and
 - (b) is not authorised to do, or assist in doing, work under that licence for the period during which the licence is suspended.
- (3) If a person's provisional licence is suspended, the person—
 - (a) is not a provisional licence holder for the period during which the licence is suspended; and
 - (b) is not authorised to do, or assist in doing, work under that licence for the period during which the licence is suspended.
- (4) At the end of the period of suspension, the person's registration, practising licence, or provisional licence is immediately revived (unless there is some other ground to suspend or cancel the registration or licence).
- (5) Subsections (1) and (2) do not prevent the Registrar from including information in the register in relation to the person under section 74(1).
- (6) Subsection (3) does not prevent the Registrar from including information in the register in relation to the person under section 74(2).

59 Board may cancel registration or licence if obtained wrongfully

- (1) The Board may order the cancellation of a person's registration, practising licence, or provisional licence if it is satisfied that he or she—
 - (a) obtained registration or obtained the licence by making a false or misleading representation or declaration (whether oral or written); or
 - (b) was not entitled to be registered or issued with the licence.
- (2) The Board may not act under subsection (1) unless it has first—
 - (a) informed the person concerned why it may act under that subsection; and
 - (b) given that person a reasonable opportunity to make written submissions and be heard on the question, either personally or by his or her representative.
- (3) The Registrar must ensure that a copy of the order made under this section is given to the person concerned.
- (4) An order made under this section takes effect from the day on which a copy of the order is given to the person concerned or from any date that is specified in the order, whichever is the later.

60 Cancellation or suspension of overseas qualification, certificate, registration, or licence

- (1) The Board may review the registration, practising licence, or provisional licence of a person who was registered or issued with the licence by virtue of an overseas qualification, certificate, registration, or licence if satisfied that—
 - (a) the educational establishment that gave him or her an overseas qualification or certificate has cancelled or suspended it (or taken action equivalent to cancelling or suspending it); or
 - (b) an overseas authority that maintains a register of people registered or licensed as plumbers, gasfitters, or drainlayers has, as a result of disciplinary action taken against the person,—
 - (i) removed his or her name from that register; or
 - (ii) cancelled his or her licence; or
 - (iii) suspended his or her registration or licence; or
 - (iv) taken action equivalent to an action referred to in subparagraph (i) or (ii) or (iii).
- (2) The form of a review under this section is at the Board's discretion.
- (3) However, in conducting the review, the Board must give the person concerned—
 - (a) the particulars that are reasonably necessary to clearly inform the person of the substance of the grounds on which the Board has decided to carry out the review; and

- (b) a reasonable opportunity to make written submissions and be heard on the question, either personally or by his or her representative.
- (4) After the review, the Board may, if it thinks fit,—
 - (a) order the suspension of the person’s registration, practising licence, or provisional licence for any period it thinks fit; or
 - (b) order the cancellation of the person’s registration, practising licence, or provisional licence.
- (5) The Registrar must ensure that a copy of the order made under subsection (4) is given to the person concerned.
- (6) An order made under subsection (4) takes effect from the day on which a copy of the order is given to the person concerned or from any date that is specified in the order, whichever is the later.

Miscellaneous provision

61 Board may delegate power to Electrical Workers Registration Board to act under this subpart

- (1) The Board may delegate any of the functions or powers of the Board under this subpart, either generally or specifically, to the Electrical Workers Registration Board.
- (2) The Electrical Workers Registration Board may, unless the delegation provides otherwise, perform the function or exercise the power in the same manner, subject to the same restrictions, and with the same effect as if the Electrical Workers Registration Board were the Board.
- (3) If the Electrical Workers Registration Board purports to perform a function or exercise a power under a delegation, the Electrical Workers Registration Board—
 - (a) is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of that delegation; and
 - (b) must produce evidence of its authority to do so, if reasonably requested to do so.
- (4) The Electrical Workers Registration Board must—
 - (a) give effect to any direction given to it by the Board in relation to the performance of functions or the exercise of powers under this section; and
 - (b) notify the Board if it has registered a person or issued a licence under this subpart.
- (5) No delegation under this section—
 - (a) affects or prevents the performance of any function or the exercise of any power by the Board; or

- (b) affects the responsibility of the Board for the actions of the Electrical Workers Registration Board acting under the delegation; or
- (c) is affected by any change in the membership of the Electrical Workers Registration Board or the Board.

Subpart 2—Employer licences in respect of gasfitting

62 Employer licence in respect of gasfitting

- (1) A person is, on application in the prescribed form (if any) and on payment of the prescribed fee (if any), entitled to be issued with an employer licence by the Board if the person satisfies the Board that the person will at all times maintain a system of operation—
 - (a) that complies with the requirements that are prescribed by regulations; and
 - (b) that is sufficient to ensure that employees of that person who do or assist in doing gasfitting—
 - (i) are competent to carry out the range of work for which they are employed; and
 - (ii) receive the supervision and training that is necessary to ensure that the work—
 - (A) is carried out safely and competently; and
 - (B) complies with the requirements of the Gas Act 1992 and any regulations made under section 54 of that Act.
- (2) A person must be treated as maintaining a system of operation described in subsection (1)(a) and (b) if an approved person, in the prescribed manner, certifies that the system of operation complies with those provisions, and issues a certificate to that effect in the prescribed form.
- (3) A certification under subsection (2) ceases to have effect if—
 - (a) the approved person, by notice in writing to the certificate holder, revokes the certificate; or
 - (b) the term of the certification comes to an end.
- (4) However, a person is not entitled to be issued with an employer licence if the person is precluded from holding an employer licence because of any action taken by the Board under section 66.
- (5) The Board may impose in respect of any employer licence issued under this section any terms and conditions that the Board thinks fit (for example, by restricting the types of gasfitting that may otherwise be done under the licence).
- (6) For the purposes of this section, **approved person** means—
 - (a) a person designated by regulations as an approved person:

- (b) a member of a class of persons designated by regulations as a class of approved persons.

Compare: 1976 No 69 s 39A(1), (2)

63 Gasfitting may be done under employer licence

- (1) An employer licence authorises the licence holder to authorise any employee of that person to do or assist in doing any gasfitting.
- (2) Any authority given under an employer licence to any person to do or assist in doing any gasfitting is sufficient authority for the person so authorised to do or, as the case may be, assist in doing that work.
- (3) This section is subject to the terms and conditions imposed under section 62 and to any regulations.

Compare: 1976 No 69 s 39A(3)

64 Duration of employer licence

An employer licence, unless it is sooner cancelled or suspended, is in force for the period (not exceeding 5 years) that is specified in the licence, and comes into force on the date of its issue.

Compare: 1976 No 69 s 39B(1)

65 Renewal of employer licence

- (1) Every employer licence, unless it has been cancelled, may from time to time be renewed in accordance with this section.
- (2) An application for the renewal of an employer licence must—
 - (a) be sent or delivered to the Registrar; and
 - (b) be in the form required by the Board; and
 - (c) contain, or be accompanied by, the information and documentation required by the Board; and
 - (d) be accompanied by the prescribed fee (if any).
- (3) The Registrar must refer any application received by the Registrar under subsection (2) to the Board for consideration under this section.
- (4) On receiving an application under subsection (3), the Board may renew the employer licence to which the application relates for the period (not exceeding 5 years) that the Board thinks fit.
- (5) However, the Board must not renew an employer licence unless the Board is satisfied that the applicant meets all the requirements for the issue of an employer licence.
- (6) If an application for the renewal of an employer licence has been made but not dealt with before the licence expires, the licence continues in force until the application is dealt with by the Board, and any renewal in that case must take

effect from the date on which the licence would (but for the renewal) have expired.

Compare: 1976 No 69 s 39B(2)–(6)

66 Cancellation, suspension, and other actions in relation to employer licences

- (1) The Board may (in relation to a matter raised by a complaint or by its own inquiries) take any of the actions referred to in subsection (2) in relation to an employer licence if it is satisfied that the employer licence holder—
 - (a) obtained the licence by making a false or misleading representation or declaration (whether oral or written); or
 - (b) was not entitled to be issued with an employer licence; or
 - (c) no longer meets all the requirements for the issue of an employer licence; or
 - (d) has failed to comply with any term or condition imposed by the Board in respect of that licence; or
 - (e) has failed to ensure that the gasfitting done by employees of that person—
 - (i) is at all times carried out safely and competently; and
 - (ii) complies with the requirements of the Gas Act 1992 and any regulations made under that Act.
- (2) In any case to which subsection (1) applies, the Board may—
 - (a) do both of the following things:
 - (i) order that the employer licence be cancelled; and
 - (ii) order that the employer licence holder may not apply to be issued with an employer licence before the expiry of a specified period:
 - (b) order that the employer licence be suspended—
 - (i) for any period that the Board thinks fit; or
 - (ii) until the employer licence holder does any things that the Board may specify (for example, reviewing and improving safety procedures):
 - (c) order that the employer licence be restricted, for any period that the Board thinks fit, by limiting the gasfitting that the employer licence holder may authorise an employee to do, or assist in doing, to the work that the Board may specify, and in imposing a limitation of this type the Board may also impose limitations on the circumstances in which an employee may do, or assist in doing, that work:
 - (d) order the employer licence holder to pay a fine not exceeding \$50,000:
 - (e) order that the employer licence holder be censured:
 - (f) make no order under this subsection.

- (3) The Board may take only one type of action in subsection (2) in relation to a case, except that it may impose a fine under subsection (2)(d) in addition to taking the action under subsection (2)(b), (c), or (e).
- (4) No fine may be imposed under subsection (2)(d) in relation to an act or omission that constitutes an—
 - (a) offence for which the person has been convicted by a court; or
 - (b) infringement offence for which the person has been issued with an infringement notice and has paid an infringement fee.
- (5) The Board may take an action under this section whether or not the person is still an employer licence holder.

Compare: 1976 No 69 s 39C

67 Board must give employer licence holder reasonable opportunity to be heard

The Board must not take any of the actions referred to in section 66 unless it has first—

- (a) informed the employer licence holder concerned why it may take any of those actions; and
- (b) given that person a reasonable opportunity to make written submissions and be heard on the question, either personally or by that person's representative.

68 Miscellaneous provisions concerning actions under section 66

- (1) Every fine imposed under section 66 is recoverable in any court of competent jurisdiction as a debt due to the Board.
- (2) An order under section 66 takes effect on the day of the making of the order; but that fact does not make any person concerned liable to prosecution or disciplinary proceedings for any act done or omitted during any part of that day before the order was made.
- (3) If a person's employer licence is suspended, the person is not authorised under section 63 for the period for which the licence is suspended.
- (4) At the end of a period of suspension, the person's employer licence is immediately revived (unless there is some other ground to suspend or cancel that person's employer licence).

69 Powers of inspection

- (1) Every employer licence is subject to a condition that—
 - (a) any person authorised by the Board for the purpose may, for an authorised purpose, at any reasonable time, inspect any premises (not being a dwellinghouse) occupied by the employer licence holder, and for that purpose may enter and re-enter any place:

- (b) the Board may, for an authorised purpose,—
 - (i) require the employer licence holder to produce for inspection, within any reasonable period that the Board may specify, any document or class of document in the possession or under the control of the employer licence holder, and may take copies of, or extracts from, any of those documents:
 - (ii) require the employer licence holder to provide, within any reasonable period that the Board may specify, any information or class of information that the Board may require.
- (2) If the employer licence holder breaches a condition expressed in subsection (1), the Board may act under section 66.
- (3) A person must give reasonable notice of that person's intention to enter any premises under subsection (1)(a) to the employer licence holder, unless the giving of the notice would defeat the purpose of the entry.
- (4) Every person must, on entering any premises under subsection (1)(a), and when requested at any subsequent time, produce—
 - (a) evidence of that person's authority to enter the premises; and
 - (b) evidence of that person's identity.
- (5) The following are **authorised purposes** for the purposes of this section:
 - (a) the purpose of ensuring compliance with the terms and conditions of the employer licence:
 - (b) the purpose of ensuring that the gasfitting work done by employees of the employer licence holder—
 - (i) is at all times carried out safely and competently; and
 - (ii) complies with the requirements of the Gas Act 1992 and any regulations made under section 54 of that Act.
- (6) Nothing in this section authorises any person to enter or search any restricted area within a defence area (within the meaning of the Defence Act 1990) unless the person entering that area has a security clearance approved by the person in charge of the area.

Compare: 1976 No 69 s 39E

Subpart 3—Register of plumbers, gasfitters, and drainlayers

70 Register of plumbers, gasfitters, and drainlayers

- (1) The Board must establish and maintain, in accordance with this Part, a register of plumbers, gasfitters, and drainlayers.
- (2) The register must be kept by the Registrar.

71 Registrar must enter matters in register

The Registrar must—

- (a) enter in the register the information and documentation referred to in sections 74 and 75; and
- (b) make any other entries in the register that may be required, permitted, or directed to be entered by or under this Act.

72 Purpose of register

(1) The purpose of the register is—

- (a) to enable members of the public to—
 - (i) determine whether a person is a registered person or holds a practising licence, provisional licence, or employer licence issued under this Part and, if so, the status and relevant history of the person's registration or licence; and
 - (ii) choose a suitable person to do sanitary plumbing, gasfitting, or drainlaying work; and
 - (iii) know how to contact a registered person or a provisional licence holder or an employer licence holder; and
 - (iv) obtain information concerning which persons have been disciplined under this Act or the former Act within the last 3 years; and
- (b) to enable members of the public to obtain information concerning whether or not a person has previously been registered under this Part or the former Act or held a licence under this Part or the former Act and, if so, the relevant history of the person's registration or licence; and
- (c) to facilitate the administrative, disciplinary, and other functions of the Board, the Electrical Workers Registration Board, any investigator, and the Registrar under this Act.

(2) This section is subject to section 83 (which allows the Registrar to restrict public access to certain information or documentation in certain circumstances).

73 Form of register

(1) The register may be kept—

- (a) as an electronic register; or
- (b) in any other manner that the Registrar thinks fit.

(2) The Registrar may keep the register in separate parts.

(3) The register must be operated at all times unless—

- (a) the Registrar suspends the operation of the register, in whole or in part, in accordance with subsection (4); or
- (b) otherwise provided in regulations.

- (4) The Registrar may refuse access to the register or otherwise suspend the operation of the register, in whole or in part, if the Registrar considers that it is not practical to provide access to the register.

74 Matters to be contained in register

- (1) The register must contain all of the following information, to the extent that the information is relevant, for each registered person:
- (a) full name; and
 - (b) street address, telephone number, and email address (if any); and
 - (c) the following information about the status and history of the person's registration and practising licence (if any):
 - (i) the class or classes of registration in respect of which the person is registered; and
 - (ii) the date on which the person was first registered in respect of each of those classes; and
 - (iii) whether, in respect of each of those classes, the person holds a current practising licence; and
 - (iv) the date on which the person was first issued with a practising licence for a particular class of registration; and
 - (v) the expiry date of each practising licence held by the person; and
 - (vi) a statement of the limitations subject to which the person is registered or a practising licence has been issued (if any); and
 - (vii) any conditions placed on the registration or practising licence of the person; and
 - (viii) any action taken under section 42 of the former Act (as in force immediately before the commencement of this section) or section 106 on a disciplinary matter in respect of the person in the last 3 years; and
 - (ix) any current suspension, the ground under this Act for the suspension, its period, and any conditions for its termination; and
 - (d) information about any cancellation of the registration of the person or of any licence held by the person under this Act or the former Act, including the ground for the cancellation.
- (2) The register must contain all of the following information, to the extent that the information is relevant, for each provisional licence holder and each employer licence holder:
- (a) full name; and
 - (b) street address, telephone number, and email address (if any); and
 - (c) the following information about the status and history of the person's licence:

- (i) the type of licence held by the person; and
- (ii) the date on which the person was first issued with the licence; and
- (iii) the period for which the licence has been issued; and
- (iv) a statement of the limitations subject to which the licence has been issued (if any); and
- (v) any conditions placed on the licence; and
- (vi) any action taken under section 42 of the former Act (as in force immediately before the commencement of this section) or section 66 or 106 on a disciplinary matter against the person in the last 3 years; and
- (vii) any current suspension, the ground under this Act for the suspension, its period, and any conditions for its termination; and
- (d) information about any cancellation of the registration of the person or of any licence held by the person under this Act or the former Act, including the ground for the cancellation; and
- (e) the following information about an employer licence holder that is a body corporate:
 - (i) the full name of a contact person for the body corporate;
 - (ii) the company number or incorporation number of the body corporate (if any).
- (3) The register must contain—
 - (a) all of the information referred to in subsection (1), to the extent that the information is relevant, in relation to a person who was formerly a registered person; and
 - (b) all of the information referred to in subsection (2), to the extent that the information is relevant, in relation to a person who was formerly a provisional licence holder or formerly an employer licence holder; and
 - (c) all other information and documentation that is prescribed as information and documentation that must be included in the register.
- (4) The register may contain any other information or documentation that the Registrar considers necessary or desirable for the purposes of the register.
- (5) For the purposes of this section, **disciplinary matter** means an inquiry into, or complaint about, the conduct of a person, or a decision on that inquiry or complaint.

75 Historical registration and licence information and documentation to be included in register

- (1) This section applies to all of the information and documentation contained in the registers that were kept under section 20 of the former Act (as in force immediately before its repeal).

- (2) The information and documentation that this section applies to must be maintained as part of the register.
- (3) The inclusion of that information and documentation as part of the register—
 - (a) does not confer any rights or privileges on any person; and
 - (b) does not authorise any person to do any sanitary plumbing, gasfitting, or drainlaying or to assist in doing any sanitary plumbing, gasfitting, or drainlaying.

76 Duty to notify change of address

- (1) If a practising licence holder, a provisional licence holder, or an employer licence holder changes that person's street address that is recorded in the register, that person must, within 3 months after the change, notify the Registrar of that person's new street address.
- (2) The Registrar must enter the new address in the register.
- (3) Every person who breaches subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$500.

Section 76(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

77 Duty to notify change of name

- (1) If a practising licence holder, a provisional licence holder, or an employer licence holder changes that person's name, that person must, within 1 month after the change, notify the Registrar of the person's new name.
- (2) If the Registrar is satisfied that a registered person, a provisional licence holder, or an employer licence holder has changed that person's name, or that it is wrongly entered in the register, the Registrar must correct the entry in the register relating to that person.
- (3) Every person who breaches subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$500.

Section 77(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

78 Revision of register

- (1) The Registrar may at any time, and must if the Board directs, ask whether—
 - (a) a registered person wishes to have that person's registration or practising licence cancelled; or
 - (b) a provisional licence holder or an employer licence holder wishes to have that person's licence cancelled.
- (2) The Registrar must ask by letter addressed to the registered person, provisional licence holder, or employer licence holder at that person's last known street address.

- (3) If the registered person tells the Registrar in writing that the person wishes to have the person's registration or practising licence cancelled, the Board may order that the registration or practising licence be cancelled.
- (4) If the provisional licence holder or employer licence holder tells the Registrar in writing that the person wishes to have the person's licence cancelled, the Board may order that the licence be cancelled.
- (5) If the Registrar does not receive a reply to the letter within 3 months after it was posted, or if the letter is returned to the Registrar undelivered, the Registrar may give the registered person or provisional licence holder or employer licence holder notice in writing at that person's last known street address that the registration or practising licence (or both) of the registered person, or the licence of the provisional licence holder or employer licence holder, may be cancelled if that person does not respond within 20 working days after the date of the notice.
- (6) If the Registrar does not receive a reply within 20 working days after the date of the notice, the Board may order that—
 - (a) the registered person's registration or practising licence (or both) be cancelled; or
 - (b) the licence of the provisional licence holder or employer licence holder be cancelled.

79 Restoration of registration or licence

- (1) This section applies to a person if the person's registration or licence has been cancelled under section 57(1)(b) or 78.
- (2) On the written application of a person to whom this section applies, the Registrar must restore the entry in the register relating to the person's registration or licence unless—
 - (a) the person is not entitled to be registered or issued with the licence; or
 - (b) the person is subject to pending disciplinary proceedings under Part 3; or
 - (c) the person is subject to an order under section 66(2)(a) or 106(1)(a).

80 Board may direct Registrar to record cancellation, suspension, or order

The Board may direct the Registrar to enter in the register information relating to—

- (a) a cancellation of registration or of a licence; or
- (b) a suspension of registration or of a licence; or
- (c) any decision, direction, or order made under section 66 or Part 3.

81 Alterations to register

The Registrar may make any amendments to the register that are necessary to—

- (a) reflect any changes in the information specified in section 74; or
- (b) correct a mistake caused by any error or omission on the part of the Registrar or any person to whom the Registrar has delegated his or her functions, duties, or powers; or
- (c) comply with a direction given by the Board.

82 Register to be public

- (1) The register must be open for public inspection during ordinary office hours at the place where it is kept.
- (2) The Registrar must, on payment of the prescribed fee (if any), supply—
 - (a) a copy of any entry in the register to any person requesting it; or
 - (b) a certified copy of any entry in the register to any person requesting it.
- (3) The fee charged under subsection (2)(a) must be not more than the fee that may be charged by a department of State for providing information under the Official Information Act 1982.

83 Restricting public access to information and documents on register

- (1) Despite section 82, the Registrar—
 - (a) may restrict public access to all or any of the information referred to in section 74(1)(b), (2)(b), or (2)(e)(i) in relation to a particular person if that person requires the Registrar to restrict public access to that information; and
 - (b) must restrict public access to any information or documentation referred to in section 74(1)(c)(viii), (2)(c)(vi), (3), or (4) or section 75 if—
 - (i) required to do so by regulations; or
 - (ii) directed to do so by the Board.
- (2) For the purposes of subsection (1)(b), the Board may direct the Registrar to restrict public access to any information or documents referred to in that paragraph if, in the opinion of the Board, it is not necessary, or it is not desirable, for the information or documents to be publicly available.

84 Search of register

A person may search the register in accordance with this Act or the regulations.

85 Search criteria

The register may be searched only by reference to criteria to be specified in the regulations.

86 Search purposes

A search of the register may be carried out only for a purpose referred to in section 72.

87 When search constitutes interference with privacy of individual

A search of the register for personal information that has not been carried out in accordance with sections 84 to 86 constitutes an action that is an interference with the privacy of an individual under section 69 of the Privacy Act 2020.

Section 87: replaced, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

Part 3

Discipline and offences

Subpart 1—Discipline

Preliminary provisions

88 Persons to whom this subpart applies

This subpart applies to the following persons:

- (a) every registered person:
- (b) every provisional licence holder:
- (c) every person who is no longer a registered person but who was a registered person at the time of the relevant conduct:
- (d) every person who is no longer a provisional licence holder but who was a provisional licence holder at the time of the relevant conduct:
- (e) every person who is the subject of an order of the Board under this subpart.

89 Disciplinary offence

For the purposes of this subpart, a person to whom this subpart applies is guilty of a disciplinary offence if that person is found, in any proceedings under this subpart, or in any appeal under Part 4,—

- (a) to have carried out or caused to be carried out sanitary plumbing, gasfitting, or drainlaying work—
 - (i) in a negligent or incompetent manner; or
 - (ii) in a manner contrary to any enactment relating to sanitary plumbing, gasfitting, or drainlaying that was in force at the time the work was done; or
- (b) to have intentionally or negligently created a risk of serious harm to any person, or significant property damage, through—
 - (i) having used or caused to be used faulty or improper appliances, pipes, drains, sanitary fixtures, or fittings; or
 - (ii) having carried out or caused to be carried out any sanitary plumbing, gasfitting, or drainlaying work; or

- (c) to have failed to have complied with a term or condition of the person's registration or licence; or
- (d) to have done sanitary plumbing, gasfitting, or drainlaying work that, under the terms of any restriction or limitation that applies to the work that the person may do, the person is not authorised to do; or
- (e) to have intentionally deceived or attempted to deceive any registered person who is authorised to test and certify sanitary plumbing, gasfitting, or drainlaying work by—
 - (i) purposely concealing inferior work or inferior appliances, pipes, drains, sanitary fixtures, or fittings used; or
 - (ii) making any false or misleading statement (whether in writing or not) to that person; or
- (f) to have failed to provide any return required under any enactment relating to sanitary plumbing, gasfitting, or drainlaying work or to have provided a false or misleading return; or
- (g) to have employed, directed, or permitted any unauthorised person to do any sanitary plumbing, gasfitting, or drainlaying work; or
- (h) to have been convicted of an offence relating to sanitary plumbing, gasfitting, or drainlaying against this Act or the former Act or the Health Act 1956, or against any regulations made under this Act or either of those Acts or under the Gas Act 1992; or
- (i) to be guilty of improper or incompetent conduct in performing that person's work, or in charging for it, that renders that person unfit to be registered or licensed under Part 2.

Complaints

90 Complaints

- (1) Any person (including any person in the service of the Crown acting in his or her official capacity) may complain to the Board about the conduct of a person to whom this subpart applies by making the complaint in the prescribed manner to the Registrar.
- (2) However, a complaint may not be made under subsection (1) by the Board, a member of the Board, or the Registrar.
- (3) The Registrar must, as soon as practicable after receiving a complaint,—
 - (a) inform the Board; and
 - (b) inform the person complained against of the general nature of the complaint.
- (4) However, if the Registrar is satisfied that the complaint is frivolous or vexatious,—
 - (a) subsection (3) does not apply; and

- (b) section 91 does not apply; and
- (c) the Registrar must inform the complainant that the complaint will not be investigated or proceeded with.

Investigations

91 Registrar must appoint investigator

- (1) The Registrar must, as soon as practicable after receiving a complaint, appoint an investigator to investigate the complaint unless the Registrar acts under section 90(4).
- (2) The person appointed as the investigator must not be a member of the Board or the person who made the complaint.
- (3) No person who is employed by a local authority may be appointed to be an investigator without the prior consent of that authority.

92 Investigation of complaint

- (1) The investigator may require that a complaint be supported by any statutory declaration that the investigator thinks fit.
- (2) The investigator must—
 - (a) determine whether, in the investigator’s opinion, the complaint should be considered by the Board; and
 - (b) report the investigator’s findings to the Board.
- (3) The investigator may recommend that the Board make an order under section 102 in respect of the person complained against pending the determination of disciplinary proceedings against that person.
- (4) Before the investigator makes a determination that the complaint should be considered by the Board, the investigator or the Registrar—
 - (a) must send particulars of the complaint to the person complained against; and
 - (b) must give the person a reasonable opportunity to make written submissions and be heard on the matter, either personally or by that person’s representative.
- (5) The Registrar must send a copy of the investigator’s report under subsection (2) to the person complained against and to the complainant.

93 Investigator’s powers

- (1) An investigator, for the purpose of investigating a complaint,—
 - (a) may, at any reasonable time, enter and re-enter any land or premises and—
 - (i) inspect and test any sanitary plumbing, gasfitting, or drainlaying work on that land or those premises:

- (ii) make any inquiries that are reasonably necessary to determine whether or not any sanitary plumbing, gasfitting, or drainlaying work on that land or those premises has been carried out in a competent and safe manner and in accordance with enactments relating to sanitary plumbing, gasfitting, or drainlaying that were in force at the time the work was done; and
 - (iii) generally do any other things on that land or those premises that are reasonably necessary to enable the investigation to be carried out; and
 - (b) may, by written notice served on any person, require that person to—
 - (i) produce for inspection, within any reasonable period that the investigator may specify, any document or class of document in the possession or under the control of the person:
 - (ii) provide, within any reasonable period that the investigator may specify, any information or class of information that the investigator may require; and
 - (c) may take copies of, or extracts from, any of the documents referred to in paragraph (b).
- (2) Subsection (1)(a) applies in respect of dwellinghouses subject to section 96.
- (3) Every person who is required to supply information or documents to an investigator has the same privileges in relation to the supply of the information or documents as witnesses have in any court.

94 Registrar must supply warrant of authority

- (1) The Registrar must supply to an investigator who intends to act under section 93(1)(a) a written warrant of authority that contains—
- (a) a reference to that provision; and
 - (b) the full name of the investigator; and
 - (c) a statement of the powers conferred by that provision.
- (2) A person who does not have a warrant supplied under this section must not represent himself or herself to be the holder of a warrant supplied under this section.
- (3) Every person commits an offence and is liable on conviction to a fine not exceeding \$10,000 who—
- (a) fails to comply with subsection (2); or
 - (b) impersonates or falsely pretends to be a person named in a warrant supplied under this section.

Section 94(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

95 Duties of investigator supplied with warrant of authority

An investigator supplied with a warrant of authority under section 94—

- (a) must carry the warrant when exercising the power under section 93(1)(a), produce the warrant on initial entry, and produce the warrant, if requested, at any subsequent time; and
- (b) must, on the termination of his or her authority to act under section 93, surrender the warrant to the Registrar; and
- (c) must not purport to act under a warrant after the termination of his or her authority to act under section 93.

96 Restriction on entry to dwellinghouse

- (1) Despite section 93, an investigator may not enter a dwellinghouse without—
 - (a) the consent of the occupier of the dwellinghouse; or
 - (b) a warrant issued under subsection (2).
- (2) A District Court Judge, on the written application of the investigator, may, by warrant, authorise the investigator to enter a dwellinghouse.
- (3) The District Court Judge may authorise the investigator to enter a dwellinghouse under subsection (2)—
 - (a) only if the Judge is satisfied that—
 - (i) the proposed entry is necessary for the purposes of section 93; and
 - (ii) the investigator has taken all reasonable steps to obtain the consent of the occupier to the proposed entry; and
 - (b) subject to any conditions that the Judge thinks fit.

97 Investigator must give notice to occupier of dwellinghouse

An investigator must,—

- (a) if he or she intends to apply for a warrant under section 96, give the occupier of the dwellinghouse to which that application relates not less than 10 days' written notice of his or her intention to do so; and
- (b) before he or she enters a dwellinghouse under the authority of a warrant under section 96, give a copy of the warrant to the occupier of the dwellinghouse to which that warrant relates.

98 Notices to supply information or documents

Any notice given by an investigator under section 93(1)(b) is sufficiently given if—

- (a) it is in writing; and
- (b) it is signed by the investigator; and

- (c) it is given to the person or persons primarily concerned or to any person or organisation considered by the investigator to represent the person or persons primarily concerned.

99 Offence to fail to comply with notice to supply information or document

- (1) No person may,—
 - (a) without reasonable excuse, refuse or fail to comply with a notice under section 93(1)(b); or
 - (b) in purported compliance with the notice, supply information, or supply a document, knowing it to be false or misleading.
- (2) Every person who breaches subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$10,000 in the case of an individual, or \$50,000 in the case of a body corporate.

Section 99(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Consideration of complaint by Board

100 Board must hold hearing if investigator reports that complaint should be considered by Board

- (1) If the investigator reports that a complaint should be considered by the Board, the Board must hold a hearing to determine whether it should exercise its disciplinary powers under section 106.
- (2) If the investigator reports that a complaint should not be considered by the Board, the Registrar must inform the complainant and the person complained against of that determination.

101 Notice of disciplinary proceedings

- (1) If the Board is required to hold a hearing in respect of any person, the chairperson must serve on the person concerned a notice—
 - (a) that contains a statement to the effect that the investigator has reason to believe that a ground exists entitling the Board to exercise its powers under section 106; and
 - (b) that contains the particulars that are reasonably necessary to clearly inform the person of the substance of the ground believed to exist; and
 - (c) that specifies a date, being not less than 20 working days after the date of service of the notice, on which the Board intends to hear the matter.
- (2) The notice may require the person to whom the notice is addressed to notify the Board in writing, not later than 10 working days after the date of service of the notice, whether the person intends to appear before the Board at the hearing of the matter.

- (3) If the person fails to notify that person's intention under subsection (2), that person is entitled to appear and be heard at the hearing of the matter only on the conditions as to payment of costs and expenses or otherwise that the Board thinks fit.
- (4) Despite subsection (1)(c), the Board may hear the matter earlier than 20 working days after the date of service of the notice if the person concerned agrees.

Interim suspension or disqualification

102 Interim suspension or disqualification

- (1) The Board may make an order under subsection (2)—
 - (a) before or after a notice has been served on a person under section 101; and
 - (b) if it is satisfied that it is necessary to do so having regard to the need to protect the safety of members of the public.
- (2) An order under this subsection is either—
 - (a) an order suspending the person's practising licence or provisional licence; or
 - (b) an order disqualifying a person from doing, or assisting in doing, sanitary plumbing, gasfitting, or drainlaying work that the person would otherwise be authorised to do or assist in doing.
- (3) An order under subsection (2) continues in force until—
 - (a) the investigator determines that the complaint should not be considered by the Board; or
 - (b) the Board determines that it should not exercise its disciplinary powers under section 106; or
 - (c) the Board does any of the things authorised by section 106.
- (4) The Board may make an order under subsection (2) on the recommendation of the investigator or on its own motion.
- (5) Despite section 112, the Board is not required to give any notice to a person that it intends to make an order under subsection (2) in respect of that person.

103 Form of interim suspension or disqualification order

- (1) Every order made under section 102 must—
 - (a) be in writing; and
 - (b) contain a statement of the reasons on which it is based; and
 - (c) contain a clear statement of the right of the person in respect of whom it is made to apply to the Board for the revocation of the order; and
 - (d) be signed by the chairperson.

- (2) A copy of an order made under section 102 must be served by the Registrar on the person in respect of whom it is made.

104 Revocation of interim suspension or disqualification

- (1) A person in respect of whom an order is made under section 102 may apply to the Board for the revocation of the order.
- (2) An application under subsection (1) must be heard within 5 working days after it is received by the Board.
- (3) The Board may grant or refuse the application as it thinks fit.
- (4) The Board may, on its own motion, revoke an order made under section 102.

105 Board must take reasonable steps to hold hearing as soon as practicable if it makes interim suspension or disqualification order

- (1) If the Board has made an order under section 102 in relation to a person, the Board must take reasonable steps to hold a hearing as soon as practicable after the making of that order.
- (2) Subsection (1) does not apply after the order made under section 102 is no longer in force.
- (3) This section is subject to section 101.

Exercise of disciplinary powers

106 Disciplinary powers of Board

- (1) If the Board, after conducting a hearing, is satisfied that a person to whom this subpart applies is guilty of a disciplinary offence, the Board may—
 - (a) do 1 or more of the following things:
 - (i) order that the person's registration or practising licence (or both) be cancelled:
 - (ii) order that the person's provisional licence be cancelled:
 - (iii) order that the person may not apply to be re-registered or re-licensed before the expiry of a specified period:
 - (b) order that the person's registration or practising licence (or both), or the person's provisional licence, be suspended—
 - (i) for any period that the Board thinks fit; or
 - (ii) until that person does 1 or more of the things specified in subsection (2):
 - (c) order that the person's registration or practising licence (or both), or the person's provisional licence, be restricted for any period that the Board thinks fit, in either or both of the following ways:
 - (i) by limiting the person to the work that the Board may specify:

- (ii) by limiting the person to doing, or assisting in doing, work in certain circumstances (for example, by limiting the person to work only on approved premises or only in the employ of an approved employer):
 - (d) order that the person be disqualified from doing or assisting in doing sanitary plumbing, gasfitting, or drainlaying work that the person would otherwise be authorised to do in that person's capacity as a person to whom this subpart applies—
 - (i) permanently, or for any period that the Board thinks fit; or
 - (ii) until that person does 1 or more of the things specified in subsection (2):
 - (e) order the person to do 1 or more of the things specified in subsection (2) within the period specified in the order:
 - (f) order the person to pay a fine not exceeding \$10,000:
 - (g) order that the person be censured:
 - (h) make no order under this subsection.
- (2) The things that the person can be required to do for the purposes of subsection (1)(b), (d), and (e) are to—
- (a) pass any specified examination:
 - (b) complete any competence programme or specified period of training:
 - (c) attend any specified course of instruction.
- (3) The Board may take only one type of action in subsection (1) in relation to a case, except that it may impose a fine under subsection (1)(f) in addition to taking the action under subsection (1)(b), (c), (e), or (g).
- (4) No fine may be imposed under subsection (1)(f) in relation to an act or omission that constitutes—
- (a) an offence for which the person has been convicted by a court; or
 - (b) an infringement offence for which the person has been issued with an infringement notice and has paid an infringement fee.
- (5) The Board must not exercise any authority conferred by this section in respect of any offence committed by any person before the date of that person's registration or, as the case may be, the date on which that person's provisional licence was issued if at that date the Board was aware of that person's conviction in respect of that offence.
- (6) If a person is registered under Part 2 in respect of more than 1 class of registration, the Board may exercise its powers under subsection (1)(a) to (e) in respect of each of those classes or 1 or more of those classes as the Board thinks fit.

107 Costs and expenses

In any case to which section 106 applies, the Board may order the person concerned to pay to the Board any sum that it considers just and reasonable towards the costs and expenses of, and incidental to,—

- (a) the investigator's investigation of the complaint;
- (b) the prosecution of the complaint by the investigator;
- (c) the hearing by the Board.

108 Enforcement of fines, costs, and expenses

Every fine imposed under section 106, and any sum payable to the Board under section 107, is recoverable in any court of competent jurisdiction as a debt due to the Board.

109 Suspension, restriction, or disqualification may take effect immediately

- (1) The Board may order that an order under section 102 or 106(1)(b) to (d) take effect on the day of the making of the order.
- (2) If an order under section 102 or 106(1)(b) to (d) takes effect on the day of the making of the order, that fact does not make the person concerned liable to prosecution or disciplinary proceedings for any act done or omitted during any part of that day before the order was made.

110 Effect of disqualification

- (1) A person is not authorised to do, or assist in doing, sanitary plumbing, gasfitting, or drainlaying for the period for which the person is disqualified from doing or assisting in doing that work.
- (2) At the end of the period of disqualification, the person's authorisation is immediately revived (unless there is some other ground to disqualify the person from doing, or assisting in doing, sanitary plumbing, gasfitting, or drainlaying or the person's authorisation has otherwise ended).

111 Consequences of failure to comply with order to pass examination, complete competence programme, or attend course of instruction

- (1) If the Board makes an order under section 106(1)(e) and the person concerned fails to comply with the order, the Board may make either or both of the following orders:
 - (a) that the person's registration, practising licence, or provisional licence be subject to any condition that the Board considers appropriate;
 - (b) that the person's registration, practising licence, or provisional licence be suspended.
- (2) The Board may not suspend registration or a licence under subsection (1) unless it has first—
 - (a) informed the person concerned why it may act in that manner; and

- (b) given that person a reasonable opportunity to make written submissions and be heard on the question, either personally or by his or her representative.
- (3) The Registrar must ensure that a copy of the order made under subsection (1) is given to the person concerned.
- (4) An order made under subsection (1) takes effect from the day on which a copy of the order is given to the person concerned or from any date that is specified in the order, whichever is the later.
- (5) Any order made under subsection (1) remains in effect until the time that the person concerned has complied with the order under section 106(1)(e), and for that purpose the Board may extend the period within which the person is required to comply with the order.

Procedure and miscellaneous matters

112 Rules of natural justice to be observed

- (1) In carrying out its functions and duties under this subpart, the Board must observe the rules of natural justice.
- (2) Without limiting subsection (1), at a hearing held by the Board under this subpart, the person to whom the hearing relates is entitled to appear and be heard, either personally or by the person's representative.

113 Meetings to be held in public

- (1) Except as provided in this section, every meeting of the Board under this subpart must be in public.
- (2) The Board may deliberate in private as to its decision in any matter or as to any question arising in the course of any proceedings before it.
- (3) If the Board is of the opinion that it is proper to do so, having regard to the interests of any person and to the public interest, it may, on its own motion or on the application of any party to the proceedings,—
 - (a) order that the whole or any part of a hearing must be held in private:
 - (b) make an order prohibiting the publication of any report or account of any part of any proceedings before it, whether held in public or in private:
 - (c) make an order prohibiting the publication of the whole or any part of any documents produced at any hearing:
 - (d) make an order prohibiting the publication of the name or any particulars of the affairs of—
 - (i) any person who is the subject of proceedings before it:
 - (ii) any other person.

- (4) Every application to the Board under subsection (3) must be heard in private, but the other parties to the proceedings are entitled to be present and to make submissions with regard to the application.
- (5) If a hearing of the Board is held in private, the Board may allow any particular person to attend the private hearing if it is satisfied that the person has a special and proper interest in the matter to be heard.
- (6) Unless reversed or modified in respect of its currency by a court on an appeal, an order made under subsection (3)(b) to (d) continues in force until the time that is specified in the order, or, if no time is specified, until the Board, in its discretion, revokes it on the application of any party to the proceedings in which the order was made.
- (7) Every person commits an offence and is liable on conviction to a fine not exceeding \$5,000 who, without lawful excuse, breaches any order made by the Board under subsection (3)(b) to (d).

Section 113(7): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

114 Investigator to prosecute matter

- (1) If the investigator reports that in the investigator's opinion a complaint should be considered by the Board, the matter must be prosecuted by the investigator at the hearing held by the Board under this subpart (unless the Board orders otherwise).
- (2) The investigator may be represented by counsel or otherwise.

115 Appointment of legal advisor to assist Board

- (1) For the purposes of advising the Board on questions of law and procedure arising in proceedings under this subpart, the Board may appoint an advisor who is a barrister or solicitor to attend the proceedings.
- (2) The Board must pay to the advisor, by way of remuneration and expenses for his or her services for the proceedings, the sum that is agreed upon between the advisor and the Board.

116 Appointment of persons to assist investigator

- (1) For the purposes of assisting the investigator in the performance of the investigator's functions under this subpart, the Registrar may appoint any person (the **appointed person**) to assist the investigator.
- (2) The Board must pay to the appointed person, by way of remuneration and expenses for his or her services, the sum that is agreed upon between the appointed person and the Registrar.
- (3) The investigator may delegate any of the functions or powers of the investigator, either generally or specifically, to the appointed person.

- (4) The appointed person may, unless the delegation provides otherwise, perform the function or exercise the power in the same manner, subject to the same restrictions, and with the same effect as if the appointed person were the investigator.
- (5) If the appointed person purports to perform a function or exercise a power under a delegation, the appointed person—
 - (a) is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of that delegation; and
 - (b) must produce evidence of his or her authority to do so, if reasonably requested to do so.
- (6) No delegation under this section—
 - (a) affects or prevents the performance of any function or the exercise of any power by the investigator; or
 - (b) affects the responsibility of the investigator for the actions of the appointed person acting under the delegation.

117 Evidence

In all proceedings under this subpart, the Board may, subject to section 112, receive as evidence any statement, document, information, or matter that may in its opinion assist it to deal effectively with the matter before it, whether or not it would be admissible as evidence in a court of law.

118 Board to have powers of commission of inquiry

- (1) The Board has, for the purposes of any hearing under this subpart, the same powers as are conferred on commissions of inquiry by sections 4 and 4B to 9 of the Commissions of Inquiry Act 1908.
- (2) Sections 4 and 4B to 9 of the Commissions of Inquiry Act 1908 apply to all persons involved in any capacity in any hearing held by the Board under this subpart as if it were an inquiry conducted by a commission of inquiry under that Act.

119 Orders to be in writing

- (1) Every order of the Board under section 106 must—
 - (a) be in writing; and
 - (b) contain a statement of the reasons on which it is based; and
 - (c) contain a clear statement of the right of the person in respect of whom it is made to appeal against the order, and the time within which notice of appeal must be given; and
 - (d) be signed by the chairperson.
- (2) A copy of every order of the Board under section 106 must be served by the Registrar on the person in respect of whom it is made, and takes effect—

- (a) in accordance with section 109; or
 - (b) from the day on which service is effected, or any later date that is specified in the order.
- (3) The Registrar must ensure that a copy of any order made under section 106 is given, as soon as practicable, to—
 - (a) the investigator who investigated the complaint; and
 - (b) the complainant (if any).
- (4) The Registrar must, if the Board so directs, give a copy of any order made under section 106 to the owner and to the occupier of the premises to which the complaint relates.

120 Publication of decisions and orders

- (1) This section applies if—
 - (a) any decision or order has been made by the Board under this subpart in respect of a person, and no appeal has been brought in respect of that decision or order within 20 working days after notice of the decision or order was given to the person; or
 - (b) an order has been made under Part 4 by any court in respect of a person.
- (2) The Registrar must, if the Board in its discretion so directs, cause a notice stating the effect of the decision or order, the reasons for the decision or order, and (unless the Board directs otherwise) the name of the person in respect of whom the decision or order was made, to be published in the *Gazette* and any other publications as may be directed by the Board.
- (3) This section is subject to any order of any court.

Subpart 2—Offences

121 False declarations and representations

Every person commits an offence and is liable on conviction to a fine not exceeding \$10,000 who, for the purpose of obtaining any registration, licence, renewal of a licence, or certificate under this Act, either on the person's own behalf or on behalf of any other person,—

- (a) either orally or in writing, makes any declaration or representation that, to the person's knowledge, is false or misleading in any material particular; or
- (b) provides to the Registrar, the Board, or the Electrical Workers Registration Board, any document knowing that the document—
 - (i) contains any declaration or representation that is false or misleading in any material particular; or
 - (ii) is not genuine; or

- (c) makes use of any document knowing that the document—
 - (i) contains any declaration or representation that is false or misleading in any material particular; or
 - (ii) is not genuine.

Section 121: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

122 Unlicensed or unregistered person must not claim to be licensed or registered

Every person commits an offence and is liable on conviction to a fine not exceeding \$10,000 who,—

- (a) not being registered or licensed under Part 2 in respect of a particular class of sanitary plumbing, gasfitting, or drainlaying work,—
 - (i) does any act that is intended to cause or may reasonably cause any other person to believe that the person is so registered or licensed; or
 - (ii) uses, or causes or permits to be used, in connection with any business, trade, or calling any written words, titles, or initials, or any abbreviation of any words, titles, or initials, that are intended to cause or may reasonably cause any other person to believe that the person using them is so registered or licensed; or
 - (iii) in any way holds himself or herself or itself out as being so registered or licensed; or
- (b) knowing that some other person is not registered or licensed under Part 2 in respect of a particular class of sanitary plumbing, gasfitting, or drainlaying work, and with intent to deceive, makes any statement or does any act calculated to suggest that the other person is so registered or licensed; or
- (c) with intent to deceive, makes use of any certificate of registration or licence issued to that person or any other person under Part 2; or
- (d) allows a certificate of registration or a licence to be used by any other person for the purpose of enabling that other person to do any sanitary plumbing, gasfitting, or drainlaying in breach of Part 1.

Section 122: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

123 Offences to engage in work in breach of sections 8 to 10 and to employ person to do work in breach of those sections

- (1) Every person commits an offence and is liable on conviction to a fine not exceeding \$10,000 who does, or assists in doing, any—
 - (a) sanitary plumbing in breach of section 8; or
 - (b) drainlaying in breach of section 10.

- (2) Every person commits an offence and is liable on conviction to a fine not exceeding \$50,000 in the case of an individual, or \$250,000 in the case of a body corporate, who does, or assists in doing, any gasfitting in breach of section 9.
- (3) Every person who employs any person under a contract of service to do, or assist in doing, any sanitary plumbing or drainlaying in breach of section 8 or 10 commits an offence and is liable on conviction to a fine not exceeding \$10,000.
- (4) Every person who employs any person under a contract of service to do, or assist in doing, any gasfitting in breach of section 9 commits an offence and is liable on conviction to a fine not exceeding \$10,000 in the case of an individual, or \$25,000 in the case of a body corporate.

Section 123(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 123(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 123(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 123(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

124 Offence to fail to comply with condition of employer licence

Every person who, being the holder of an employer licence, fails to comply with any condition of that licence commits an offence and is liable on conviction to a fine not exceeding \$50,000 in the case of an individual, or \$250,000 in the case of a body corporate.

Section 124: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

125 Other offences

- (1) Every person commits an offence and is liable on conviction to a fine not exceeding \$10,000 who—
 - (a) intentionally or negligently does or causes or permits to be done any sanitary plumbing or drainlaying in a manner that is dangerous to life; or
 - (b) knowingly permits or pays any person to do any sanitary plumbing or drainlaying in breach of section 8 or 10; or
 - (c) being a person registered or licensed or authorised in accordance with this Act, does any sanitary plumbing or drainlaying that the person is not entitled to do under this Act; or
 - (d) intentionally hinders or obstructs any authorised person in the exercise of any powers conferred by or under section 93 or any regulations in relation to any sanitary plumbing or drainlaying.

- (2) Every person commits an offence and is liable on conviction to a fine not exceeding \$50,000 in the case of an individual, or \$250,000 in the case of a body corporate, who—
- (a) intentionally or negligently does or causes or permits to be done any gasfitting in a manner that is dangerous to life; or
 - (b) knowingly employs, permits, or pays any person to do any gasfitting in breach of section 9; or
 - (c) being a person registered or licensed or authorised in accordance with this Act, does any gasfitting that the person is not entitled to do under this Act; or
 - (d) intentionally hinders or obstructs any authorised person in the exercise of any powers conferred by or under section 69 or 93 or any regulations in relation to any gasfitting.
- (3) Every person commits an offence and is liable on conviction to a fine not exceeding \$10,000 who, being in possession of any limited certificate issued under Part 1 or any certificate of registration or licence issued under Part 2, fails or refuses to surrender it to the Board within 10 working days of a written demand to do so by the Registrar.
- (4) A charging document must not be filed under subsection (1)(b) or (2)(b) by any person other than the Registrar or a person authorised in writing in that behalf by the Board.

Section 125(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 125(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 125(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 125(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

126 Certificate by Registrar to be evidence of various matters

- (1) A certificate purporting to be signed by the Registrar in relation to the matters referred to in subsection (2) is, until the contrary is proved, and without proof of the signature appended to the certificate, sufficient evidence of the matters specified in the certificate.
- (2) The matters are—
- (a) that, at any time or during any period specified in the certificate, any person was or was not a registered person or a holder of a particular class of licence:
 - (b) that any entry in the register is as stated in the certificate or that any entry is absent from the register:

- (c) that any person has failed or refused to surrender any certificate or licence within 10 working days of a written demand by the Registrar to do so:
- (d) any matter relating to any act or proceeding of the Board or an investigator.

127 Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence under this Part ends on the date that is 5 years after the date on which the offence was committed.

Section 127: replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

128 Infringement offences

- (1) If a person is alleged to have committed an infringement offence, that person may either—
 - (a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or
 - (b) be served with an infringement notice as provided in section 129.
- (2) Despite section 21 of the Summary Proceedings Act 1957, leave of a District Court Judge or Registrar to file a charging document is not necessary if the Board or the Registrar commences proceedings for an infringement offence by filing a charging document under the Criminal Procedure Act 2011.

Section 128(1)(a): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 128(2): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

129 Infringement notices

- (1) The Registrar may issue an infringement notice to a person if—
 - (a) the Registrar believes on reasonable grounds that the person is committing, or has committed, an infringement offence; and
 - (b) the Registrar or another person has not taken enforcement action against the same defendant in respect of the same matter.
- (2) The Registrar may revoke an infringement notice before the infringement fee is paid, or before an order for payment of a fine is made or deemed to be made by a court under section 21 of the Summary Proceedings Act 1957.
- (3) An infringement notice is revoked by giving written notice to the person to whom it was issued that the notice is revoked.
- (4) For the purposes of this section, **enforcement action** means,—
 - (a) in relation to the Registrar,—
 - (i) the filing of a charging document under this Part; or

- (ii) the issuing of an infringement notice under this Part; and
- (b) in relation to a person other than the Registrar, the filing of a charging document under this Part.

Section 129(4)(a)(i): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 129(4)(b): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

130 Procedural requirements for infringement notices

- (1) An infringement notice may not be issued after the close of the 14th day after the Registrar becomes aware of the alleged infringement offence.
- (2) An infringement notice may be served on a person—
 - (a) by delivering it, or a copy of it, personally to the person who appears to have committed the infringement offence; or
 - (b) by sending it, or a copy of it, by post, addressed to the person at the person's last known place of residence or business.
- (3) An infringement notice sent under subsection (2)(b) must be treated as having been served on the person on the date it was posted.
- (4) An infringement notice must be in the prescribed form and must contain—
 - (a) details of the alleged infringement offence that are sufficient fairly to inform a person of the time, place, and nature of the alleged infringement offence; and
 - (b) the amount of the infringement fee; and
 - (c) an address at which the infringement fee may be paid; and
 - (d) the time within which the infringement fee must be paid; and
 - (e) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957; and
 - (f) a statement that the person served with the notice has a right to request a hearing; and
 - (g) a statement of what will happen if the person served with the notice does not pay the fee and does not request a hearing; and
 - (h) any other prescribed matters.
- (5) If an infringement notice has been issued, proceedings in respect of the infringement offence to which the notice relates may be commenced in accordance with section 21 of the Summary Proceedings Act 1957 and, in that case,—
 - (a) reminder notices may be prescribed under regulations; and
 - (b) in all other respects, section 21 of the Summary Proceedings Act 1957 applies with all necessary modifications.
- (6) Reminder notices must contain the prescribed information.

Section 130(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

131 Payment of infringement fee

The Registrar must pay all infringement fees received into a Crown Bank Account.

132 Effect of infringement notice

- (1) If an infringement notice is issued, a criminal record must not be created in respect of the infringement offence.
- (2) Subsection (1) does not prevent a court being told, for the purpose of sentencing a person convicted of an offence under this Part, that the person has paid, or is obliged to pay, an infringement fee for a particular infringement offence.

Part 4

Administration, appeals, and miscellaneous provisions

Subpart 1—Plumbers, Gasfitters, and Drainlayers Board

133 Plumbers, Gasfitters, and Drainlayers Board

- (1) There continues to be a Board called the Plumbers, Gasfitters, and Drainlayers Board.
- (2) The Board is a body corporate with perpetual succession, and has and may exercise all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity.
- (3) The Board is the same body as the Plumbers, Gasfitters, and Drainlayers Board constituted under the former Act.

Compare: 1976 No 69 s 5

134 Membership of Board

- (1) The Board consists of—
 - (a) 2 persons who are registered, or entitled to be registered, under Part 2 in relation to a class of registration that includes or involves sanitary plumbing or sanitary plumbing of a particular kind, of whom at least 1 must be a person who holds a current practising licence; and
 - (b) 2 persons who are registered, or entitled to be registered, under Part 2 in relation to a class of registration that includes or involves gasfitting or gasfitting of a particular kind, of whom at least 1 must be a person who holds a current practising licence; and
 - (c) 2 persons who are registered, or entitled to be registered, under Part 2 in relation to a class of registration that includes or involves drainlaying or drainlaying of a particular kind, of whom at least 1 must be a person who holds a current practising licence; and

- (d) 4 other persons, of whom—
 - (i) 1 (but not more than 1) may be a registered person; and
 - (ii) 1 must be a person whom the Minister considers has appropriate experience in relevant tertiary or vocational education; and
 - (iii) 2 must be persons whom the Minister considers are able to represent consumer interests.
- (2) Each member is appointed by the Minister by notice in the *Gazette*.
- (3) Every person who, immediately before the commencement of this section, held office as a member of the Plumbers, Gasfitters, and Drainlayers Board under the former Act is deemed to be appointed as a member of the Board under this section.
- (4) The term of office of every person deemed to be appointed as a member of the Board under subsection (3) expires on the date on which, but for the passing of this Act, that term would have expired under the former Act.

Compare: 1976 No 69 s 6

135 Term of office

- (1) Each member takes office from a date specified for that purpose in the notice appointing the member or, if no date is specified in the notice, from the date on which the notice is published in the *Gazette*.
- (2) Each member is appointed for a term of 3 years or any shorter term as is specified in the notice of appointment, and may be reappointed from time to time, but no person is eligible to be a member for more than 9 consecutive years.
- (3) A member continues in office despite the expiry of his or her term of office until—
 - (a) a successor is appointed; or
 - (b) the member is reappointed.

Compare: 1976 No 69 s 6A

Section 135(3): inserted, on 24 October 2019, by section 108 of the Statutes Amendment Act 2019 (2019 No 56).

136 Vacation of office

- (1) A member of the Board may at any time resign his or her office by giving a notice to that effect to the Minister.
- (2) A member of the Board is to be taken to have vacated his or her office if—
 - (a) he or she dies; or
 - (b) he or she is adjudged bankrupt.
- (3) A member of the Board may be removed from office by the Minister, by notice given to the member, on the grounds of inability to perform the functions of the

office, or for neglect of duty, or misconduct, proved to the satisfaction of the Minister.

- (4) A member of the Board may be removed from office by the Minister, with the concurrence of the Board, by notice given to the member, on the ground that the member's performance on the Board is inadequate.
- (5) A member of the Board is not entitled to any compensation or other payment or benefit relating to his or her ceasing for any reason to hold office as a member.
- (6) The powers of the Board are not affected by any vacancy in its membership.

Compare: 1976 No 69 s 6B

137 Functions of Board

The functions of the Board are—

- (a) to designate classes of registration for the purposes of Part 2:
- (b) to specify for each of those classes the work that persons are authorised to do, or assist in doing, by virtue of being a registered person of a particular class and holding a current practising licence:
- (c) to prescribe the minimum standards for registration for each of those classes that persons must meet in order to be registered as registered persons and to be issued with practising licences:
- (d) to prescribe the terms and conditions subject to which persons are registered and licences are issued:
- (e) to prescribe standards or requirements relating to competent and safe work practices and the testing of those practices:
- (f) to recognise appropriate overseas qualifications, certificates, registration, or licences for the purposes of registering persons and issuing licences under Part 2:
- (g) to consider applications for registration and licences under Part 2, and to register persons and issue licences in proper cases:
- (h) to establish criteria for granting, and to grant, exemptions from registration and licensing requirements to persons and classes of persons:
- (i) to authorise persons to do certain things in accordance with Part 1 and to issue limited certificates in proper cases under that Part:
- (j) to renew licences for subsequent terms in proper cases:
- (k) to promote, monitor, and review the ongoing competency and safe work practices of registered persons, provisional licence holders, and employer licence holders:
- (l) to make arrangements for the examination of persons practising or intending to practise the sanitary plumbing or gasfitting or drainlaying trades:

- (m) to present or issue, either independently or in conjunction with any other examining body, diplomas or certificates to persons in recognition of their proficiency in any of those trades:
- (n) to make recommendations to any person or body concerned with the education or training of any person wishing to enter the sanitary plumbing, gasfitting, or drainlaying trades, or with regard to any other matter affecting those trades:
- (o) to hear complaints about, and discipline, persons to whom subpart 1 of Part 3 applies:
- (p) to institute prosecutions against persons for the breach of any Act or regulation relating to sanitary plumbing, gasfitting, or drainlaying:
- (q) to make recommendations to the Minister with respect to the making of regulations, or the making of regulations controlling sanitary plumbing or drainlaying under the Health Act 1956:
- (r) to exercise and perform any other functions, duties, and powers as are conferred or imposed on the Board by or under this Act or by or under any other enactment:
- (s) to do any other things as may, in the Board's opinion, be necessary for the effective administration of this Act:
- (t) to carry out any functions that are incidental and related to, or consequential on, its functions stated in this section.

Compare: 1976 No 69 s 11(1)

138 Powers of Board

The Board has all of the powers that are reasonably necessary or expedient to enable the Board to carry out its functions.

Compare: 1976 No 69 s 11(2)

139 Power to amend or revoke

- (1) The Board's power to make, issue, give, or publish any order, notice, exemption, or other instrument includes the power to—
 - (a) amend or revoke it:
 - (b) revoke it and replace it with another.
- (2) The Board's power to impose any terms or conditions includes the power to—
 - (a) amend or revoke those terms or conditions:
 - (b) revoke those terms or conditions and replace them with other terms or conditions.
- (3) This section does not limit section 15 of the Interpretation Act 1999.

140 Registrar of Plumbers, Gasfitters, and Drainlayers

- (1) The Board may appoint a person to be the Registrar of Plumbers, Gasfitters, and Drainlayers.
- (2) The Board may pay to the Registrar the remuneration that it considers appropriate.
- (3) The Board may delegate any of the functions or powers of the Board, either generally or specifically, to the Registrar.
- (4) No delegation under this section may include any function or power conferred or imposed on the Board by or under sections 28, 30, or 142 to 144, or subpart 1 of Part 3.
- (5) The Registrar may, unless the delegation provides otherwise, perform the function or exercise the power in the same manner, subject to the same restrictions, and with the same effect as if the Registrar were the Board.
- (6) If the Registrar purports to perform a function or exercise a power under a delegation, the Registrar—
 - (a) is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of that delegation; and
 - (b) must produce evidence of his or her authority to do so, if reasonably requested to do so.
- (7) No delegation under this section—
 - (a) affects or prevents the performance of any function or the exercise of any power by the Board; or
 - (b) affects the responsibility of the Board for the actions of the Registrar acting under the delegation; or
 - (c) is affected by any change in the person holding the office of Registrar.

Compare: 1976 No 69 s 13(1)

141 Other officers

- (1) The Board may appoint any deputy registrars and other officers, employees, and agents that it thinks necessary for the efficient performance of the Board's functions.
- (2) The Board may pay to the persons appointed under this section the remuneration that it considers appropriate.
- (3) The Registrar may delegate any of the functions or powers of the Registrar, either generally or specifically, to a deputy registrar.
- (4) A deputy registrar may, unless the delegation provides otherwise, perform the function or exercise the power in the same manner, subject to the same restrictions, and with the same effect as if the deputy registrar were the Registrar.
- (5) If a deputy registrar purports to perform a function or exercise a power under a delegation, the deputy registrar—

- (a) is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of that delegation; and
 - (b) must produce evidence of his or her authority to do so, if reasonably requested to do so.
- (6) No delegation under this section—
- (a) affects or prevents the performance of any function or the exercise of any power by the Registrar; or
 - (b) affects the responsibility of the Registrar for the actions of a deputy registrar acting under the delegation; or
 - (c) is affected by any change in the person holding the office of Registrar.

Compare: 1976 No 69 s 13(1)

142 Board may prescribe fees

- (1) The Board may, by notice in the *Gazette*, prescribe the fees payable in respect of the following matters:
- (a) an application for registration or the issue of any licence under Part 2:
 - (b) an application for the renewal of any licence under Part 2:
 - (c) an addition or alteration to the register:
 - (d) the issue of any certificate, or a copy of any certificate:
 - (e) an application for an exemption under Part 1 or Part 2:
 - (ea) the notification, by a person who holds a current practising licence that authorises that person to supervise work done under section 19, 21, or 25, of the supervision of a person doing that work (if notification is required as part of the terms and conditions, imposed by notice published under section 30(1)(c), that apply in respect of that licence):
 - (f) the supply of a copy of any entry in the register:
 - (g) inspection of the register, or of any other documents kept by the Board that are open for inspection:
 - (h) the supply to any registered person of any documents, other than a certificate of registration or a licence, required by him or her for the purpose of seeking registration or a licence overseas:
 - (i) any other matter that relates to anything the Board is required to do in order to carry out its functions.
- (2) Different fees may be prescribed under this section for different classes of person.
- (3) Any notice prescribing any fee under this section may exempt any class or classes of person from liability to pay any fee, and may provide for the waiver or refund of any fee.

- (4) The Registrar, or any other officer or employee of the Board authorised in that behalf by the Board, may take and receive any prescribed fees.
- (5) Until the prescribed fee has been paid, the Registrar or any other officer or employee of the Board may decline to do any act, or permit any act to be done, or to receive any document, in respect of which that fee is payable.

Compare: 1976 No 69 ss 14A, 15(1), (2)

Section 142(1)(ea): inserted, on 8 September 2018, by section 74 of the Statutes Amendment Act 2018 (2018 No 27).

143 Disciplinary and prosecution levy

- (1) The Board may, by notice in the *Gazette*, impose on every registered person a disciplinary and prosecution levy of any amount it thinks fit for the purpose of funding the costs arising out of—
 - (a) investigations into allegations or complaints against registered persons; and
 - (b) proceedings concerning discipline under Part 3; and
 - (c) investigations into, and prosecutions against persons for, the breach of any Act or regulation relating to sanitary plumbing, gasfitting, or drain-laying.
- (2) Any notice imposing any levy under this section may exempt from liability to pay the levy any class or classes of registered person, and may provide for the waiver or refund of any levy.

Compare: 1976 No 69 s 14B

Section 143 heading: amended, on 14 September 2013, by section 4(1) of the Plumbers, Gasfitters, and Drainlayers Amendment Act 2013 (2013 No 73).

Section 143(1): replaced, on 14 September 2013, by section 4(2) of the Plumbers, Gasfitters, and Drainlayers Amendment Act 2013 (2013 No 73).

144 Board may prescribe forms

The Board may, by notice in the *Gazette*,—

- (a) prescribe forms of applications, certificates, licences, infringement notices, reminder notices, and other documents required under Parts 1 to 3; and
- (b) require the use of those forms.

145 Further provisions relating to fees, levy, and forms

- (1) Every notice under sections 142 to 144 comes into force on a date specified in the notice, being not less than 28 days after the date of publication of the notice in the *Gazette*.
- (2) A notice under sections 142 to 144 is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

- (3) Every fee prescribed under section 142, and every levy imposed under section 143, is payable, and recoverable as a debt due, to the Board.
- (4) All levies collected under section 14B of the former Act may—
 - (a) continue to be used for the purposes referred to in section 14B of the former Act; or
 - (b) be used for the purposes referred to in section 143.

Compare: 1976 No 69 s 14C

Section 145(2): replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

146 Application of money received by Board

- (1) All money paid to the Board must be paid into a bank account as determined by the Board.
- (2) The money may be applied only to the payment of any expenditure, costs, or expenses incurred by the Board in the performance of its functions and duties or the exercise of its powers, including—
 - (a) the payment of remuneration and travelling allowances and expenses to its members, officers, employees, and agents (including any person referred to in section 147):
 - (b) the payment of contributions to the global asset trust under the National Provident Fund Restructuring Act 1990, or to any other superannuation fund or scheme established, with the approval of the Minister of Finance, for the purpose of providing superannuation or retiring allowances for the Board's employees:
 - (c) contributing towards the cost of educating or training any person wishing to enter the sanitary plumbing, gasfitting, or drainlaying trades, and providing scholarships or bursaries and making donations for that purpose.
- (3) The Board may invest any money for the time being not required for any of the purposes referred to in subsection (2) in accordance with the Trusts Act 2019.
- (4) The Board must keep full and true accounts of all money received and expended by it.
- (5) Every payment of money on behalf of the Board must, unless authorised by a prior resolution of the Board, be submitted to the Board for confirmation at its first ordinary meeting after the date of payment.
- (6) This section is subject to section 131.

Compare: 1976 No 69 s 15(3)–(7)

Section 146(3): amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

147 Fees and allowances

The Board may pay to members of the Board, to members of any committee appointed by the Board, and to investigators, out of the funds of the Board, the remuneration (by way of fees, salary, or otherwise) and allowances and expenses as the Board from time to time determines.

Compare: 1976 No 69 s 14

148 Unauthorised expenditure

The Board may, in any financial year, expend for purposes not authorised by any Act or law any sum or sums not amounting in total to more than \$500.

Compare: 1976 No 69 s 17

149 Auditor-General to be auditor of Board

The Board is a public entity as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor.

Compare: 1976 No 69 s 15(9)

150 Obligation to prepare annual report

- (1) The Board must prepare an annual report on its operations for each financial year.
- (2) The financial year of the Board ends on 31 March in each year or on any other date determined by the Board.

151 Form and content of annual report

- (1) An annual report of the Board must contain the following information and reports in respect of the period to which it relates:
 - (a) a report on its operations, including the following information:
 - (i) the information that is necessary to enable an informed assessment to be made of the Board's performance and exercise of its functions and powers under this Act during the period:
 - (ii) the number of persons registered in relation to each class of registration as at the end of the period:
 - (iii) the number of persons who hold current practising licences in relation to each class of registration as at the end of the period:
 - (iv) the number of persons who applied for registration under Part 2 during the period:
 - (v) the number of persons who applied for practising licences, provisional licences, or employer licences under Part 2 during the period:
 - (vi) the number of persons who were registered or issued with a licence under Part 2 during the period:

- (vii) the number of persons whose registration or licence was cancelled or suspended under this Act during the period:
 - (viii) the number and type of complaints made under Part 3 during the period:
 - (ix) the number of persons against whom the Board made an order under Part 3 during the period:
 - (x) the amount of the fees payable in relation to registration or the issue of licences under this Act during the period:
 - (xi) the number of persons who applied for entry for any examination prescribed by the Board and the number of persons sitting the examination who achieved a passing grade during the period:
 - (xii) the number and outcome of all prosecutions against any person for any breach of this Act during the period:
 - (xiii) a brief description of the type of breaches referred to in subparagraph (xii):
 - (xiv) the number of persons registered or issued with a licence by the Board under the Electricity Act 1992:
 - (xv) any other information that the Minister reasonably requires:
- (b) the financial statements referred to in section 158:
 - (c) the statement of responsibility prepared in accordance with section 158:
 - (d) the Auditor-General's report under section 159.
- (2) An annual report must be in writing, dated, and signed on behalf of the Board by 2 members.

152 Obligation for Board to provide annual report to Minister

The Board must provide the annual report for a financial year to the Minister as soon as practicable after the end of the financial year.

153 Board to publish reports

As soon as practicable after giving a report to the Minister under section 152, the Board must make the report publicly available on an Internet site maintained by or on behalf of the Board.

Section 153: replaced, on 24 October 2019, by section 109 of the Statutes Amendment Act 2019 (2019 No 56).

154 Annual reports to be presented to House of Representatives

The Minister must present a copy of the annual report given to him or her under section 152 to the House of Representatives no later than 10 sitting days after the date on which the Minister receives that report.

Section 154: amended, on 24 October 2019, by section 110 of the Statutes Amendment Act 2019 (2019 No 56).

155 Power of Minister to require information relating to affairs of Board

- (1) The Board must supply to the Minister any information relating to the affairs of the Board that the Minister requests.
- (2) However, a request may be refused if—
 - (a) withholding the information is necessary to protect the privacy of any person (including a deceased person); and
 - (b) there would, under the Official Information Act 1982, be good reason for withholding the information if—
 - (i) the request had been made under section 12 of that Act and section 9(2)(a) of that Act applied; and
 - (ii) the need to protect the privacy of any person were not outweighed by the Minister's need to have the information in order to discharge the Minister's ministerial duties; and
 - (c) the information relates to a particular matter in respect of which the Board or any person appointed or employed by the Board is required to act judicially.

156 Power of Minister to require output agreement

- (1) The Minister may require the Board to have in place an output agreement for any or all outputs that the Board provides in carrying out its powers and functions under this Act.
- (2) The purpose of an output agreement is to assist the Minister and the Board to clarify, align, and manage their respective expectations and responsibilities in relation to the functions and powers of the Board.
- (3) An output agreement may be for 1 year or any other term agreed between the Minister and the Board, may be entered into at any time, and may be updated to reflect any changes agreed between the Minister and the Board during its term.
- (4) An output agreement need not be legally enforceable as an agreement, but may allow the Minister to act under section 136.
- (5) An output agreement must be in writing, be dated, and be signed by, or on behalf of, the Minister and the Board.

Compare: 2004 No 115 s 170

157 Minister may require output agreement to include matters relating to Board's relationship with workforce development council

- (1) The Minister may require the output agreement referred to in section 156 to include matters relating to the Board's relationship with any workforce development council.
- (2) The purpose of the matters referred to in subsection (1) is to assist the Board and the workforce development council to clarify, align, and manage their

respective expectations and responsibilities in relation to their respective functions and powers.

- (3) In this section, **workforce development council** means a workforce development council established under section 363 of the Education and Training Act 2020.

Section 157 heading: amended, on 1 April 2020, by section 78(1) of the Education (Vocational Education and Training Reform) Amendment Act 2020 (2020 No 1).

Section 157(1): amended, on 1 April 2020, by section 78(1) of the Education (Vocational Education and Training Reform) Amendment Act 2020 (2020 No 1).

Section 157(2): amended, on 1 April 2020, by section 78(1) of the Education (Vocational Education and Training Reform) Amendment Act 2020 (2020 No 1).

Section 157(3): replaced, on 1 April 2020, by section 78(1) of the Education (Vocational Education and Training Reform) Amendment Act 2020 (2020 No 1).

Section 157(3): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

158 Annual financial statements and statement of responsibility

- (1) The Board must ensure that, within 3 months after the end of the financial year, financial statements that comply with generally accepted accounting practice are—

- (a) completed in relation to the Board and that financial year; and
- (b) dated and signed on behalf of the Board by 2 members of the Board.

- (2) The financial statements must contain, in relation to each financial statement, budgeted figures for the financial year.

- (2A) In this section,—

financial statements has the same meaning as in section 6 of the Financial Reporting Act 2013

generally accepted accounting practice has the same meaning as in section 8 of the Financial Reporting Act 2013.

- (3) The statement of responsibility for the financial statements must—
- (a) contain a statement of the Board's responsibility for the preparation of the financial statements and the judgements in them; and
 - (b) contain a statement of the Board's responsibility for establishing and maintaining a system of internal control that is designed to provide reasonable assurance as to the integrity and reliability of financial reporting.

Section 158(1): replaced, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 158(2): replaced, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 158(2A): inserted, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 158(3)(a): amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

159 Audit

- (1) The Board must, within 3 months after the end of each financial year, submit the annual report on operations, the financial statements, and the statement of responsibility to the Auditor-General for audit.
- (2) The Auditor-General must audit those documents, and provide an audit report on them to the Board, within 30 days after receiving them.

Section 159(1): amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

160 Power to borrow money

The Board may—

- (a) borrow money required for any of the purposes of the Board; and
- (b) for the purpose of securing any money borrowed, mortgage, charge, or pledge any right, title, estate, or interest in any real or personal property vested in the Board.

Compare: 1976 No 69 s 18

161 Further provisions relating to Board and members in Schedule 1

The provisions set out in Schedule 1 apply to the Board, its members, and its proceedings.

Subpart 2—Appeals

162 Appeals

- (1) A person who is dissatisfied with the whole or any part of any of the following decisions, directions, or orders may appeal to the District Court against the decision, direction, or order:
 - (a) any decision of the Board to decline to register the person or to decline to issue a licence to the person or to decline to renew the licence of the person:
 - (b) any decision of the Board to decline to issue a limited certificate under section 14 to the person or to decline to renew the limited certificate of the person:
 - (c) any decision of the Registrar to decline to issue a provisional licence to the person or to decline to renew the provisional licence:
 - (d) any decision of the Board or Registrar to suspend or cancel the person's registration or licence:
 - (e) any decision of the Board or Registrar to impose any term or condition in relation to the person's limited certificate, registration, or licence or to vary any of those terms or conditions:

- (f) any decision, direction, or order under any of sections 53 to 56, 66, 79, 83, and 178 or subpart 1 of Part 3 (except section 96).
- (2) For the purposes of this Part, any decision of the Electrical Workers Registration Board acting under Part 2 must be treated as a decision of the Board.
- (3) Subsection (1) does not confer a right to appeal against a decision under any of sections 28 to 35.

Section 162(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

163 Time for lodging appeal

An appeal under section 162 must be brought within—

- (a) 20 working days after notice of the decision, direction, or order was given to, or served on, the appellant; or
- (b) any further time that the District Court may allow on application made before or after the expiration of that period.

Section 163(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

164 Procedure on appeal

- (1) Every appeal under section 162 must be heard as soon as practicable after the appeal is lodged.
- (2) On the hearing of an appeal under section 162, the District Court may—
 - (a) confirm, reverse, or modify the decision, direction, or order of the Board or the Registrar; or
 - (b) give any decision, or make any direction or order, that the Board or the Registrar could have given or made in respect of the matter.
- (3) Nothing in this section gives the District Court power to review any part of the decision, direction, or order of the Board or the Registrar other than the part against which the appellant has appealed.
- (4) Subject to section 169, the decision of the District Court on any appeal under section 162 is final.

Section 164(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 164(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

165 Court may refer appeals back for reconsideration

- (1) The District Court may in any case, instead of determining any appeal under section 162, direct the Board or the Registrar to reconsider, either generally or in respect of any specified matters, the whole or any part of the matter to which the appeal relates.
- (2) In giving any direction under subsection (1), the District Court must—

- (a) advise the Board or the Registrar of its reasons for so doing; and
 - (b) give to the Board or the Registrar any directions it thinks just as to the whole or any part of the matter that is referred back for reconsideration.
- (3) In reconsidering any matter referred back to the Board or the Registrar under subsection (1), the Board or the Registrar must have regard to the District Court's reasons for giving a direction under that subsection, and to the court's directions under subsection (2).

Section 165(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

166 Costs

On any appeal under section 162, the District Court may make an order for the payment, by the Board or the Registrar or the appellant, of the costs incurred in respect of the appeal by the other party to the appeal.

Section 166: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

167 Power of court to prohibit publication of person's name or affairs

- (1) On any appeal under section 162, the District Court may, if in the court's opinion it is proper to do so having regard to the interests of any person and to the public interest, make an order prohibiting the publication of the name or particulars of the affairs of any person.
- (2) Every person commits an offence and is liable on conviction to a fine not exceeding \$5,000 who commits a breach of any order made under subsection (1) or evades or attempts to evade the order.

Section 167(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 167(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

168 Decision to continue in force pending appeal

Subject to any order of the court, every decision, direction, or order of the Board or the Registrar against which an appeal is lodged under section 162 continues in force and has effect according to its tenor pending the determination of the appeal.

169 Appeal on question of law

- (1) If, in respect of any appeal under section 162, the Board or the Registrar or the appellant is dissatisfied with any decision of the District Court as being erroneous in point of law, the Board or the Registrar or the appellant may appeal to the High Court on the question of law only.
- (2) Every appeal under this section must be heard and determined in accordance with rules of court.

- (3) Subpart 8 of Part 6 of the Criminal Procedure Act 2011 applies as far as applicable with the necessary modifications to every appeal under this section.

Section 169(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 169(3): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Subpart 3—Miscellaneous provisions, consequential amendments, and repeals

170 Notice and service of documents by Board, member, Registrar, or investigator

- (1) If a provision of this Act requires or authorises any notice or other document, or any notification, to be given to, or served on, a person by the Board, a member of the Board, the Registrar, or an investigator, that notice, document, or notification must be given in writing to the person—
- (a) by delivering it personally or by an agent (for example, a courier) to the person; or
 - (b) by sending it by facsimile or email to the person's facsimile number or email address; or
 - (c) by sending it by pre-paid post addressed to the person at the person's usual or last known place of residence or business; or
 - (d) in any other manner a District Court Judge directs.
- (2) In the absence of proof to the contrary, a notice, document, or notification sent by post to a person in accordance with subsection (1)(c) must be treated as having been given to, or served on, the person when it would have been delivered in the ordinary course of the post; and, in proving the delivery, it is sufficient to prove that the letter was properly addressed and posted.
- (3) If a person is absent from New Zealand, a notice, document, or notification given to, or served on, the person's agent in New Zealand in accordance with subsection (1) must be treated as having been given to, or served on, him or her.
- (4) If a person has died, the notice, document, or notification may be given or served, in accordance with subsection (1), to or on his or her personal representative.
- (5) This section applies unless a provision of this Act provides otherwise.

171 Exclusion of liability

- (1) Neither the Board, nor any committee appointed by the Board, nor an investigator, nor a person appointed under section 116, nor an assessor, nor any member, officer, agent, or employee of the Board or of any of those persons, is under any criminal or civil liability in respect of—

- (a) any act done or omitted to be done in the course of the exercise or intended exercise of any of their functions, duties, or powers under this Act; or
 - (b) any words spoken or written at, or for the purposes of, the hearing of any inquiry or other proceedings under this Act; or
 - (c) anything contained in any notice given under this Act.
- (2) Subsection (1) does not exclude the liability of any body or person for anything done or omitted in bad faith or without reasonable care.

Compare: 1976 No 69 s 62

171A Validation of disciplinary levy

- (1) A disciplinary levy payable during the period beginning on 1 April 2007 and ending on the close of 11 January 2012 is and always has been validly imposed by the Board.
- (2) Money received by the Board in payment of a disciplinary levy validated by subsection (1) is and always has been lawfully collected and applied.
- (3) In this section, **disciplinary levy payable** means a disciplinary levy payable or purportedly payable in accordance with the following:
- (a) Plumbers, Gasfitters and Drainlayers Board (Fees) Amendment Notice 2007 (*Gazette* 2007, p 414):
 - (b) Plumbers, Gasfitters and Drainlayers Board (Fees) Amendment Notice (No 2) 2007 (*Gazette* 2007, p 575) as amended by the Corrigendum to the Plumbers, Gasfitters and Drainlayers Board (Fees) Amendment Notice (No 2) 2007 (*Gazette* 2007, p 721):
 - (c) Plumbers, Gasfitters and Drainlayers Board (Fees) Amendment Notice (No 3) 2007 (*Gazette* 2007, p 3635):
 - (d) Plumbers, Gasfitters and Drainlayers Board (Fees) Notice 2010 (*Gazette* 2010, p 936) as amended by the Amendment to the Plumbers, Gasfitters and Drainlayers Board (Fees) Notice 2010 (*Gazette* 2010, p 1675):
 - (e) Plumbers, Gasfitters and Drainlayers Board (Fees) Notice 2010 (*Gazette* 2010, p 2140) as amended by the Amendment to the Plumbers, Gasfitters and Drainlayers Board (Fees) Notice 2010 (*Gazette* 2010, p 2213) and republished as the Plumbers, Gasfitters and Drainlayers Board (Fees) Notice 2010 (*Gazette* 2010, p 3604).

Section 171A: inserted, on 14 September 2013, by section 5 of the Plumbers, Gasfitters, and Drainlayers Amendment Act 2013 (2013 No 73).

171B Validation of offences fee

- (1) An offences fee payable on and from 12 January 2012 is and always has been validly prescribed by the Board.

- (2) The Board must not amend an offences fee validated by subsection (1), but may revoke it.
- (3) Money received by the Board in payment of an offences fee validated by subsection (1) is and always has been lawfully collected and applied.
- (4) In this section, **offences fee payable** means an offences fee payable or purportedly payable in accordance with the following:
 - (a) Plumbers, Gasfitters and Drainlayers Board (Fees) Notice 2010 (*Gazette* 2010, p 3604) as amended by the Amendment to the Plumbers, Gasfitters and Drainlayers Board (Fees) Notice 2010 (*Gazette* 2011, p 5677):
 - (b) Plumbers, Gasfitters and Drainlayers (Fees and Disciplinary Levy) Notice 2013 (*Gazette* 2012, p 4495).

Section 171B: inserted, on 14 September 2013, by section 5 of the Plumbers, Gasfitters, and Drainlayers Amendment Act 2013 (2013 No 73).

Regulations

172 Regulations

- (1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:
 - (a) prescribing, for the purposes of subpart 2 of Part 2, requirements in relation to the system of operation to be maintained by employer licence holders:
 - (b) designating a person or a class of persons as approved persons for the purposes of section 62:
 - (c) prescribing the manner in which approved persons may certify a system of operation for the purposes of section 62:
 - (d) prescribing procedures, requirements, and other matters, not inconsistent with this Act, for the register, including matters that relate to—
 - (i) the operation of the register:
 - (ii) the form of the register:
 - (iii) the information to be contained in the register:
 - (iv) access to the register:
 - (v) the location of, and hours of access to, the register:
 - (vi) search criteria for the register:
 - (e) prescribing the limits or scope of work which any registered persons or any person to whom any of the provisions of sections 12 to 25 applies may do or assist in doing:
 - (f) restricting and regulating the performance of particular kinds of sanitary plumbing, gasfitting, or drainlaying, whether by reference to the nature

of the work or by reference to the kind of premises, operations, equipment, materials, or substances involved, or otherwise:

- (g) prohibiting or restricting persons (whether or not they are registered persons), or any specified class of persons, or persons not possessing specified qualifications or not belonging to a specified class, from performing any specified kinds of sanitary plumbing, gasfitting, or drainlaying work:
 - (h) regulating the procedure of the Board:
 - (i) prescribing infringement offences:
 - (j) setting the infringement fee for each infringement offence, which,—
 - (i) in the case of an individual, must not exceed \$1,000; or
 - (ii) in the case of a body corporate, must not exceed \$3,000:
 - (k) prescribing information to be included in infringement notices and reminder notices:
 - (l) prescribing transitional or savings provisions relating to the coming into force of this Act:
 - (m) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.
- (2) Any regulation made under subsection (1) may make different provisions in respect of different classes of persons.
 - (3) Any transitional or savings provisions prescribed in regulations made under subsection (1)(l) are in addition to the provisions of sections 173 to 184.
 - (4) All regulations made under subsection (1)(l) that are still in force on the day that is 3 years after the commencement of this section expire at the close of that day.

Compare: 1976 No 69 s 66

Transitional provisions

173 Registered persons continue to be registered persons

- (1) Every person who, immediately before the commencement of this section, was a registered person under the former Act (as in force immediately before the commencement of this section) is, on and from the commencement of this section, deemed to be registered under subpart 1 of Part 2.
- (2) The registration of a person under subsection (1) is deemed to be—
 - (a) for a class of registration in respect of the work for which the person was registered under the former Act (as in force immediately before the commencement of this section); and

- (b) subject to any conditions, limitations, or restrictions that, immediately before the commencement of this section, were imposed by or under the former Act on the person's registration.
- (3) A person who is deemed to be registered under subsection (1) may be issued with a practising licence under subpart 1 of Part 2 if the Board is satisfied that—
 - (a) the person meets the standard of competence reasonably to be expected of a registered person who does work of the kind that the person would be authorised to do under the practising licence; and
 - (b) the person is otherwise entitled to be issued with a practising licence under section 44(a) and (c) to (e).
- (4) In considering the matter under subsection (3)(a), the Board must have regard to any current applicable minimum standards for registration for a class of registration designated by the Board that, with or without modification, replaces, or corresponds to, the type of registration under the former Act in relation to which, immediately before the commencement of this section, the person was registered (if any).
- (5) Nothing in this section prevents the Board from—
 - (a) cancelling or suspending the registration of a person who is deemed to be registered under subpart 1 of Part 2; or
 - (b) exercising any other power in relation to that registration under this Act.
- (6) Nothing in this section limits sections 8 to 10 and 43 (which provide that a registered person is not authorised to do, or assist in doing, work that the person is otherwise entitled to do by virtue of that person's registration unless the person holds a current practising licence that authorises the person to do, or assist in doing, the work).

174 Registered persons who hold licences under former Act continue to hold licences

- (1) Every person who, immediately before the commencement of this section, was a registered person under the former Act who held a licence under sections 36 to 36E of the former Act (as in force immediately before the commencement of this section) is, on and from the commencement of this section, deemed to be a registered person who holds a current practising licence issued under subpart 1 of Part 2.
- (2) However, the practising licence that a person is deemed to hold under subsection (1) is deemed to expire on the date on which the licence held under the former Act would have expired if this Act had not been enacted (but may be renewed in accordance with subsection (5)).
- (3) The registration and practising licence of a person under subsection (1) is deemed to—

- (a) be for a class of registration in respect of the work for which the person was registered and held a licence issued under the former Act (as in force immediately before the commencement of this section); and
 - (b) authorise that person to do, or assist in doing, work of the kind that the person was, immediately before the commencement of this section, permitted to do, or assist in doing, by virtue of his or her registration and licence under the former Act (as in force immediately before the commencement of this section); and
 - (c) authorise the person to supervise or direct sanitary plumbing, gasfitting, or drainlaying work if the person was authorised under or for the purposes of the former Act to supervise or direct that work; and
 - (d) be subject to any conditions, limitations, or restrictions that, immediately before the commencement of this section, were imposed by or under the former Act on the person's registration or licence.
- (4) If, as a result of a condition, limitation, or restriction of a kind referred to in subsection (3)(d) or section 175(2)(c), a person is required to do—
- (a) sanitary plumbing under the direction of a craftsman plumber, that work may be done under the direction of—
 - (i) a person who, immediately before the commencement of this section, was a craftsman plumber and who holds a current practising licence under this Act; or
 - (ii) a person authorised by the Board for the purposes of this paragraph by written notice to the authorised person; or
 - (iii) a person, or a member of a class of persons, authorised by the Board for the purposes of this paragraph by notice in the *Gazette*;
 - (b) gasfitting under the direction of a craftsman gasfitter, that work may be done under the direction of—
 - (i) a person who, immediately before the commencement of this section, was a craftsman gasfitter and who holds a current practising licence under this Act; or
 - (ii) a person authorised by the Board for the purposes of this paragraph by written notice to the authorised person; or
 - (iii) a person, or a member of a class of persons, authorised by the Board for the purposes of this paragraph by notice in the *Gazette*.
- (5) The practising licence that a person is deemed to hold under subsection (1) may be renewed if the Board is satisfied that—
- (a) the person meets the standard of competence reasonably to be expected of a registered person who does work of the kind that the person is authorised to do under the practising licence; and

- (b) the person is otherwise entitled to a renewal of his or her practising licence under section 51(1)(a), (c) to (e), and (4) to (6).
- (6) In considering the matter under subsection (5)(a), the Board must have regard to any current applicable minimum standards for registration for a class of registration designated by the Board that, with or without modification, replaces, or corresponds to, the type of registration under the former Act in relation to which the person was registered (if any).
- (7) Subsection (2) is subject to section 50(3).
- (8) Nothing in this section prevents the Board from—
 - (a) cancelling or suspending the registration or practising licence of a person who is deemed to be a registered person who holds a practising licence issued under subpart 1 of Part 2; or
 - (b) exercising any other power in relation to that registration or licence under this Act.

175 Persons holding provisional licences

- (1) Every person who, immediately before the commencement of this section, held a provisional licence under the former Act is, on and from the commencement of this section, deemed to be a person who holds a provisional licence issued under Part 2.
- (2) The licence that a person is deemed to hold under subsection (1) is deemed to—
 - (a) expire on the date on which the provisional licence under the former Act would have expired if this Act had not been enacted (but may be renewed under Part 2); and
 - (b) authorise that person to do, or assist in doing, work of the kind that the person was, immediately before the commencement of this section, permitted to do, or assist in doing, by virtue of a provisional licence issued under the former Act; and
 - (c) be subject to any conditions, limitations, or restrictions that, immediately before the commencement of this section, were imposed by or under the former Act on the person's licence.
- (3) Nothing in this section prevents the Board or the Registrar from—
 - (a) cancelling or suspending the provisional licence that a person is deemed to hold under subsection (1); or
 - (b) exercising any other power in relation to that provisional licence under this Act.

176 Persons holding employer licences

- (1) Every person who, immediately before the commencement of this section, held an employer licence under the former Act is, on and from the commencement

- of this section, deemed to be a person who holds an employer licence issued under Part 2.
- (2) The licence that a person is deemed to hold under subsection (1) is deemed to—
- (a) expire on the date on which the employer licence under the former Act would have expired if this Act had not been enacted (but may be renewed under Part 2); and
 - (b) authorise the holder of the licence to authorise any employee of that person to do, or assist in doing, any gasfitting; and
 - (c) be subject to any conditions, limitations, or restrictions that, immediately before the commencement of this section, were imposed by or under the former Act on the person's licence.
- (3) Nothing in this section prevents the Board from—
- (a) cancelling or suspending the employer licence that a person is deemed to hold under subsection (1) in accordance with subpart 2 of Part 2; or
 - (b) exercising any other power in relation to that licence under this Act.

177 Persons holding limited certificates

- (1) Every person who, immediately before the commencement of this section, held a limited certificate under the former Act is, on and from the commencement of this section, deemed to be a person who holds a limited certificate issued under section 14.
- (2) The limited certificate that a person is deemed to hold under subsection (1) is deemed to—
- (a) expire on the earlier of the following dates (but may be renewed under section 14):
 - (i) the date that the limited certificate under the former Act would have expired if this Act had not been enacted;
 - (ii) the date that is specified by the Board by written notice to the person; and
 - (b) authorise that person, in accordance with section 13, to do, or assist in doing, work of the kind that the person was, immediately before the commencement of this section, permitted to do, or assist in doing, by virtue of the limited certificate issued under the former Act; and
 - (c) be subject to any conditions, limitations, or restrictions that, immediately before the commencement of this section, were imposed by or under the former Act on the person's limited certificate.
- (3) The conditions, limitations, or restrictions imposed by section 38 of the former Act continue to apply, with all necessary modifications, in relation to a limited

certificate that is deemed to be held under this section as if the references in that provision to—

- (a) a craftsman plumber or a registered plumber were references to a registered person who holds a current practising licence that authorises the person to do the relevant work; and
 - (b) a craftsman gasfitter or a registered gasfitter were references to a registered person who holds a current practising licence that authorises the person to do the relevant work; and
 - (c) a registered drainlayer were references to a registered person who holds a current practising licence that authorises the person to do the relevant work; and
 - (d) the period for which a person has held a limited certificate is calculated by reference to the period that the person held a limited certificate under the former Act together with the period that the person holds a limited certificate under this section.
- (4) Nothing in this section prevents the Board from—
- (a) cancelling the limited certificate that a person is deemed to hold under subsection (1); or
 - (b) exercising any other power in relation to that certificate under this Act.

178 Board may vary licence, registration, or certificate or impose conditions, limitations, or restrictions on licence, registration, or certificate

- (1) The Board may at any time, by written notice to a person,—
 - (a) vary any licence, registration, or certificate that is deemed to be held by that person under any of sections 173 to 177; and
 - (b) impose terms, conditions, limitations, or restrictions on that licence, registration, or certificate.
- (2) The variation, condition, limitation, or restriction takes effect on the date specified for that purpose in the notice.

179 Applications pending at commencement of this section

- (1) This section applies to an application for, or concerning, registration or a licence or a limited certificate under the former Act that is, immediately before the commencement of this section, pending before the Board, the Registrar, or the secretary.
- (2) The applicant under an application to which this section applies may, before the application is determined by the Board, the Registrar, or the secretary, elect to withdraw the application in order to make an application to the Board or the Registrar under this Act.

- (3) If an application to which this section applies is not withdrawn under subsection (2), it must be considered and determined as if this Act had not been enacted.
- (4) When a determination of an application to which this section applies results in—
 - (a) the registration, or a change in the registration, of a person, that registration or change is deemed to have taken effect immediately before the commencement of this section; and
 - (b) the issue of a licence to a person, the issue of that licence is deemed to have taken effect immediately before the commencement of this section; and
 - (c) the issue of a limited certificate to a person, the issue of that certificate is deemed to have taken effect immediately before the commencement of this section; and
 - (d) the renewal of a licence of a person, the renewal of that licence is deemed to have taken effect immediately before the commencement of this section.
- (5) For the purposes of this section,—
 - (a) **Board** means the Plumbers, Gasfitters, and Drainlayers Board (whether constituted under the former Act or continued under Part 4):
 - (b) **Registrar** means the Registrar of Plumbers, Gasfitters, and Drainlayers (whether appointed under the former Act or Part 4):
 - (c) **secretary** has the same meaning as in the former Act.

180 Provisions relating to persons whose registration is suspended

- (1) The application of section 174, which deems a person to hold a licence, is not precluded merely by the fact that the person's registration was, immediately before the commencement of that section, suspended.
- (2) However, the licence that the person is deemed, by virtue of section 174, to hold is deemed to be suspended until the suspension of that person's registration would have expired if this Act had not been enacted.

181 Continuation of pending investigations, inquiries, and disciplinary proceedings

- (1) All investigations, inquiries, and disciplinary proceedings under the former Act that have been commenced before the commencement of this section and that have not been completed before that commencement are to be continued and completed as if this Act had not been enacted.
- (2) The Board and every other body or person appointed, constituted, or acting under the former Act in respect of complaints and disciplinary proceedings

continues to have and may exercise all its, his, or her powers, functions, and duties under that Act for the purpose of giving effect to subsection (1).

- (3) However, if a complaint or disciplinary proceeding continued under this section relates to a person who is deemed, under any of sections 173 to 175, to be a registered person or to hold a practising licence or a provisional licence, the Board's power to discipline the person includes the power to make an order under section 106(1)(a) to (e) in relation to that registration, practising licence, or provisional licence.

182 Complaints about conduct before commencement of this section

- (1) The Board may deal with a complaint about the conduct of a former registered person, or person who, immediately before the commencement of this section, held a provisional licence under the former Act, under Part 3, even though the conduct is alleged to have occurred before the commencement of this section.
- (2) Subsection (1) does not apply if an inquiry or investigation into the conduct concerned has been commenced under the former Act before the commencement of this section.
- (3) In dealing with a complaint to which subsection (1) applies, the Board may not have regard to any duty or obligation that was not binding on the former registered person or provisional licence holder at the time that the conduct complained about is alleged to have occurred.
- (4) For the purposes of this section, **former registered person**—
 - (a) means a person who, immediately before the commencement of this section, was a registered person under the former Act; and
 - (b) includes a person who was registered under the former Act and who would have been deemed to be registered under subpart 1 of Part 2 had the person still been registered under the former Act on the commencement of section 173.

183 Hearing concerning conduct before commencement of this section

- (1) An investigator may report under Part 3 that a complaint against a person should be considered by the Board in respect of conduct alleged to have occurred before the commencement of this section, but only if the investigator is satisfied that,—
 - (a) at the time of the occurrence of the conduct, the person was registered or held a licence under the former Act and the complaint could have been referred to the Board under that Act; and
 - (b) the complaint had not been referred to the Board before the commencement of this section.
- (2) If, after conducting a hearing on a complaint of the kind referred to in subsection (1), the Board finds the person guilty of a disciplinary offence under Part 3 in respect of conduct that occurred before the commencement of this section,

the Board may not impose on that person, in respect of that conduct, any order in the nature of a penalty that could not have been made against that person at the time when the conduct occurred.

- (3) However, if a hearing under this section relates to a person who is deemed, under any of sections 173 to 175, to be a registered person or to hold a practising licence or a provisional licence, the Board's power to discipline the person includes the power to make an order under section 106(1)(a) to (e) in relation to that registration, practising licence, or provisional licence.

184 Notices made under repealed provisions to have continuing effect

- (1) A notice made under section 54 of the former Act that is in force immediately before the repeal of that section continues in force as if it had been made under section 15 until it is revoked.
- (2) For the purposes of subsection (1), a reference in a notice continued under that subsection to section 54(1) of the former Act must be treated as a reference to section 15(1).
- (3) A notice made under section 55 of the former Act that is in force immediately before the repeal of that section continues in force as if it had been made under section 16 until it is revoked.
- (4) An enactment that continues in force—
 - (a) under subsection (1) may be amended or revoked under section 15:
 - (b) under subsection (3) may be amended or revoked under section 16.

Amendments, repeal, and revocation

185 Acts amended

The Acts specified in Schedule 2 are amended in the manner indicated in that schedule.

186 Repeal and revocation

- (1) The Plumbers, Gasfitters, and Drainlayers Act 1976 is repealed.
- (2) The Plumbers, Gasfitters, and Drainlayers Regulations 1977 are revoked.

Review of Act

187 Review of Act

- (1) The Ministry must, after the expiry of 3 years after the commencement of this section,—
 - (a) review the operation of this Act since the commencement of this section;and

- (b) consider whether any amendments to this Act or any other law are necessary or desirable in relation to plumbing, gasfitting, or drainlaying; and
 - (c) report on its findings to the Minister.
- (2) The Minister must present a copy of any report provided under this section to the House of Representatives as soon as practicable after receiving it.

Schedule 1
Provisions applying to Plumbers, Gasfitters, and Drainlayers Board
and its members

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1 Chairperson and deputy chairperson

- (1) At its first meeting in each year, the Board must elect one of its members to be its chairperson, and another to be its deputy chairperson.
- (2) A member who holds the office of chairperson or deputy chairperson continues in office until his or her successor is elected, and is eligible for re-election (subject to section 136).
- (3) A member who holds the office of chairperson or deputy chairperson may—
 - (a) at any time be removed from the office of chairperson or deputy chairperson by the Board; or
 - (b) at any time resign his or her office by giving a notice to that effect to the Registrar.
- (4) If a person who holds the office of chairperson or deputy chairperson ceases to be a member of the Board, the Board must elect one of its members to fill that vacancy in the office of chairperson or deputy chairperson as soon as is reasonably practicable.

2 Deputy chairperson may act for chairperson

- (1) The deputy chairperson of the Board has, and may exercise or perform, all the functions, duties, and powers of the chairperson if—
 - (a) the chairperson is at any time incapable of acting as chairperson because of illness, absence, or any other reason; or
 - (b) there is a vacancy in the office of chairperson.
- (2) The deputy chairperson is, while acting for the chairperson, to be regarded as the chairperson of the Board.
- (3) No act done by the deputy chairperson while acting for the chairperson, and no act done by the Board while the deputy chairperson is acting for the chairperson, may in any proceedings be questioned on the ground that the occasion entitling the deputy chairperson to act had not arisen or had ceased.

3 Meetings

- (1) Meetings of the Board are held at—
 - (a) times appointed by the Board; and
 - (b) subject to clause 13, places appointed by the Board.

- (2) The Registrar must give each member of the Board notice of a meeting of the Board, but the Registrar is not required to give notice to a member who is absent from New Zealand.
- (3) At any meeting of the Board, the quorum necessary for the transaction of business is 5 members.
- (4) For the purposes of determining the quorum, a member who is a representative under clause 4 may be counted only once.
- (5) A meeting of the Board at which the quorum is present is competent to perform or exercise any of the functions, duties, and powers exercisable by the Board.

4 Members representing other members

- (1) A member of the Board may be represented by another member of the Board (that other member is referred to in this clause as a **representative**).
- (2) A member may, by written notice to the Registrar or other appropriate officer, appoint a representative to represent the member on the Board, for 1 or more specific meetings that have been called or are proposed to be called, whenever the member is absent or unable to act as a member of the Board.
- (3) The appointment of a representative ceases if—
 - (a) the person who appointed the representative revokes, by written notice, the appointment; or
 - (b) the person who appointed the representative ceases to be a member of the Board; or
 - (c) the representative ceases to be a member of the Board.
- (4) A notice referred to in subclauses (2) or (3) may be delivered by hand or sent by mail or electronic transmission.
- (5) Subject to subclause (6), a representative may vote on behalf of the member whom he or she represents, and has and may exercise all the powers, rights, privileges, and duties of that member.
- (6) A representative may not, in his or her capacity as representative,—
 - (a) act as chairperson or deputy chairperson of the Board; or
 - (b) vote on any matter arising under Part 3; or
 - (c) witness the affixing of the seal of the Board.
- (7) The voting and other powers that a person has as a representative are in addition to the powers that the person has as a member of the Board.

5 Chairperson to preside at meetings

- (1) The chairperson presides at each meeting of the Board if he or she is present and willing to preside.
- (2) If the chairperson is not present or willing to preside at a meeting of the Board, the deputy chairperson, if present and willing to preside, presides.

- (3) If neither the chairperson nor the deputy chairperson is present and willing to preside at a meeting of the Board, the members present must elect a member who is present to preside at that meeting.

6 Voting at meetings

- (1) All questions arising at any meeting of the Board are decided by a majority of the votes cast by the members present.
- (2) The person presiding at the meeting has a deliberative vote, and, in the case of an equality of votes, also has a casting vote.

7 Member may not be present if subject of Board consideration

No member of the Board is entitled to be present or vote or otherwise participate in the capacity of a member of the Board at any part of a meeting of the Board where any matter relating to the member's registration, suspension, competence, fitness to practise, or discipline under this Act is being considered.

8 Meaning of interested

- (1) For the purposes of clauses 9 to 11, a member of the Board is interested in a transaction of, or other matter relating to, the Board only if the member—
- (a) is a party to, or will or may derive a material financial benefit from, the transaction or matter; or
 - (b) has a material financial interest in another party to the transaction or a person to whom the matter relates; or
 - (c) is a director, officer, member, or trustee of another party to, or a person who will or may derive a material financial benefit from, the transaction or matter; or
 - (d) is the parent, child, spouse, civil union partner, or de facto partner of another party to, or a person who will or may derive a material financial benefit from, the transaction or matter; or
 - (e) is otherwise directly or indirectly materially interested in the transaction or matter.
- (2) However, a member of the Board is not interested in a transaction or other matter merely because he or she is a member of the Board.

9 Obligation to disclose interest

A member of the Board who is interested in a transaction or proposed transaction of, or other matter relating to, the Board must disclose the nature of the interest in accordance with clause 10 as soon as practicable after the member becomes aware that he or she is interested.

10 Method of disclosure of interest

- (1) If clause 9 applies, the member must ensure that the details listed in subclause (2) are entered in an interests register and disclosed to—
 - (a) the chairperson; or
 - (b) if neither the chairperson nor the deputy chairperson is able to act or the positions of the chairperson and deputy chairperson are vacant, the Minister.
- (2) The details are—
 - (a) the nature of the interest and the monetary value of the interest (if the monetary value can be quantified); or
 - (b) the nature and extent of the interest (if the monetary value cannot be quantified).

11 Consequences of interest

A member of the Board who is interested in a transaction or proposed transaction of, or other matter relating to, the Board—

- (a) must not vote or take part in any deliberation or decision that relates to the matter; and
- (b) is to be disregarded for the purpose of forming a quorum for that part of a meeting of the Board during which a deliberation or decision relating to the matter occurs or is made.

12 Resolution assented to by members

- (1) The chairperson may circulate, by letter or electronic transmission, to each member of the Board a document setting out a draft resolution and requesting each member to assent to the resolution within a specified period of at least 3 clear days.
- (2) If a majority of the members of the Board, by letter or electronic transmission, signs or assents to a resolution circulated under subclause (1), the resolution is as valid and effective as if it had been passed at a meeting of the Board duly called and constituted.
- (3) Any such resolution may consist of several documents that are similar in form, each signed or appearing to have been sent by 1 or more members.
- (4) Every such resolution must be tabled at the next meeting of the Board held after the date on which the resolution takes effect.

13 Teleconference meetings

- (1) The contemporaneous linking together by telephone or videolink or other means of communication of a number of members, being not less than the quorum stated in clause 3, whether or not 1 or more of those members are out of

New Zealand, is to be taken as constituting a meeting of the Board to which the provisions of this Act apply, if the following conditions are met:

- (a) notice must have been given, by letter or telephone or electronic transmission, to every member of the Board entitled to receive notice of a meeting of the Board; and
- (b) each member taking part in the meeting must—
 - (i) be linked by telephone or videolink or other means of communication for the purposes of the meeting; and
 - (ii) at the commencement of the meeting acknowledge, to all the other members taking part, the member's presence for the purpose of a meeting of the Board; and
 - (iii) be able throughout the meeting to hear each of the other members taking part; and
 - (iv) on any vote, individually express his or her vote to the meeting.
- (2) A member may not stop participating in a meeting held under this clause by disconnecting the member's telephone or videolink or other means of communication without the express consent of the person presiding at the meeting.
- (3) A minute of the proceedings at a meeting held under this clause is sufficient evidence of those proceedings, and the observance of all necessary formalities, if certified as a correct minute by the person presiding at the meeting.

14 Procedure

- (1) The Board must observe the rules of natural justice but, subject to that requirement, may receive as evidence any statement, document, information, or matter, whether or not it would be admissible in a court of law.
- (2) Subject to this Act and any regulations, the Board may regulate its procedure in any manner as it thinks fit.

15 Appointment of committees

The Board may appoint 1 or more committees of the Board, and—

- (a) any committee may include or consist of persons who are not members of the Board; and
- (b) the Board must regulate the procedure of each committee in any manner as it thinks fit; and
- (c) the Board may at any time discharge, alter, or reconstitute any committee.

16 Delegation

- (1) The Board may, by written notice, delegate any of its functions, duties, or powers (other than powers of decision concerning discipline under Part 3) to any committee appointed under clause 15.

- (2) Unless otherwise provided in the delegation, a delegate may exercise a function, duty, or power of the Board delegated to it under this clause in the same manner and with the same effect as if the delegate were the Board, but may not further delegate the function, duty, or power.
- (3) Any delegation under this clause may be revoked at any time, and the delegation of a function, duty, or power does not prevent the Board from exercising the function, duty, or power itself.
- (4) Every delegate purporting to act under any delegation under this clause is, until the contrary is proved, presumed to be acting in accordance with the terms of the delegation.

17 Seal

- (1) The Board must provide for the safe custody of the common seal of the Board, which must be in any form that the Board decides.
- (2) The common seal may be used only by the authority of a resolution of the Board, or of a committee of the Board, and every document to which the seal is affixed must be signed by 2 persons, each of whom is—
 - (a) a member of the Board; or
 - (b) a person authorised to sign that document or documents of that kind.
- (3) The seal of the Board must be judicially noticed in all courts and for all purposes.

18 Insurance of members of Board and other persons

The Board may enter into contracts of insurance insuring members of the Board, members of any committee of the Board, any persons appointed to advise the Board, and any investigators, against loss from personal accident arising out of and in the course of the exercise and performance of their functions and powers under this Act, and may pay the premiums payable in respect of any of those contracts.

Schedule 2

Consequential amendments

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Building Act 2004 (2004 No 72)

Definition of **gasfitting** in section 7: omit “section 2 of the Plumbers, Gasfitters, and Drainlayers Act 1976” and substitute “section 4 of the Plumbers, Gasfitters, and Drainlayers Act 2006”.

Schedule 1: omit “the Plumbers, Gasfitters, and Drainlayers Act 1976” and substitute “the Plumbers, Gasfitters, and Drainlayers Act 2006”.

Electronic Transactions Act 2002 (2002 No 35)

Paragraph (29) of Part 4 of the Schedule: omit “constituted under the Plumbers, Gasfitters, and Drainlayers Act 1976” and substitute “continued under the Plumbers, Gasfitters, and Drainlayers Act 2006”.

Gas Act 1992 (1992 No 124)

Definition of **Board** in section 2(1): omit “constituted under the Plumbers, Gasfitters, and Drainlayers Act 1976” and substitute “continued under the Plumbers, Gasfitters, and Drainlayers Act 2006”.

Definition of **gasfitting** in section 2(1): repeal and substitute:

gasfitting has the same meaning as in section 4 of the Plumbers, Gasfitters, and Drainlayers Act 2006

Section 17(4)(b): repeal and substitute:

(b) if the accident is discovered by any person who is authorised to do gasfitting under Part 2 of the Plumbers, Gasfitters, and Drainlayers Act 2006, that person:

Section 54(1)(e): omit “provided that nothing in this paragraph shall authorise the making of any regulation in contradiction to the provisions of the Plumbers, Gasfitters, and Drainlayers Act 1976 or any regulations made under that Act:”.

Local Authorities (Members’ Interests) Act 1968 (1968 No 147)

Part 2 of Schedule 1: omit “1976 No 69—The Plumbers, Gasfitters, and Drainlayers Act 1976” and substitute “Plumbers, Gasfitters, and Drainlayers Act 2006 (2006 No 74)”.

Ombudsmen Act 1975 (1975 No 9)

Part 2 of Schedule 1: insert the following item in its appropriate alphabetical order:

Plumbers, Gasfitters, and Drainlayers Board

Reprints notes

1 *General*

This is a reprint of the Plumbers, Gasfitters, and Drainlayers Act 2006 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Education and Training Act 2020 (2020 No 38): section 668

Privacy Act 2020 (2020 No 31): section 217

Education (Vocational Education and Training Reform) Amendment Act 2020 (2020 No 1): section 78(1)

Statutes Amendment Act 2019 (2019 No 56): Part 31

Local Government Act 2002 Amendment Act 2019 (2019 No 54): section 43

Trusts Act 2019 (2019 No 38): section 161

Statutes Amendment Act 2018 (2018 No 27): Part 23

District Court Act 2016 (2016 No 49): section 261

Health and Safety at Work Act 2015 (2015 No 70): section 232

Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102): section 126

Plumbers, Gasfitters, and Drainlayers Amendment Act 2013 (2013 No 73)

Legislation Act 2012 (2012 No 119): section 77(3)

Local Government Act 2002 Amendment Act 2012 (2012 No 93): section 43

Criminal Procedure Act 2011 (2011 No 81): section 413

Plumbers, Gasfitters, and Drainlayers Act Commencement Order 2010 (SR 2010/46)