

Plumbers, Gasfitters, and Drainlayers Amendment Act 1999

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An Act to amend the Plumbers, Gasfitters, and Drainlayers Act 1976

BE IT ENACTED by the Parliament of New Zealand as follows:

1 Short Title and commencement

- (1) This Act may be cited as the Plumbers, Gasfitters, and Drainlayers Amendment Act 1999, and is part of the Plumbers, Gasfitters, and Drainlayers Act 1976 (“the principal Act”).
- (2) This Act comes into force on the 7th day after the date on which it receives the Royal assent.

2 Interpretation

- (1) Section 2 of the principal Act is amended by repealing the definitions of the terms **Chairman** and **Deputy Chairman**, and substituting the following definitions:
“**Chairman** means the Chairman of the Board appointed under clause 1 of the Schedule
“**Deputy Chairman** means the Deputy Chairman of the Board appointed under clause 1 of the Schedule”.
- (2) Section 2 of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:
“**Document** has the same meaning as it has in the Official Information Act 1982
“**Electronic transmission** includes facsimile, electronic mail, or other similar means of communication”.

3 Sections relating to membership of Board substituted

The principal Act is amended by repealing section 6, and substituting the following sections:

“6 Constitution of Board

“(1) The Board consists of—

“(a) Two persons, each of whom must be a craftsman plumber or a registered plumber; and

“(b) Two persons, each of whom must be a craftsman gasfitter or a registered gasfitter; and

“(c) Two registered drainlayers; and

“(d) Four other persons, of whom—

“(i) One (but not more than 1) may be a registered person; and

“(ii) One (but not more than 1) may be a representative of a relevant training organisation.

“(2) Each member is appointed by the Minister by notice in the *Gazette*.

“6A 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 such 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.

“6B Vacation of office

“(1) Any 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 under the Insolvency Act 1967.

“(3) Any member of the Board may be removed from office by the Minister, by notice given to the member, on the grounds of a mental or physical condition affecting performance of duty, 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) The powers of the Board are not affected by any vacancy in its membership”

4 Repeals

The principal Act is amended by repealing sections 7 to 10 and section 12.

5 New sections substituted

The principal Act is amended by repealing section 14, and substituting the following sections:

“14 Fees and allowances

There may be paid to members of the Board, any committee appointed by the Board, and to investigators appointed under section 40, out of the funds of the Board, such remuneration (by way of fees, salary, or otherwise) and allowances and expenses as the Board from time to time determines.

“14A Board may prescribe fees

“(1) The Board may from time to time, by notice in the *Gazette*, prescribe the fees payable in respect of the following matters:

“(a) An application for registration under this Act:

“(b) An addition or alteration to the register:

“(c) The issue of any licence:

“(d) The issue of any certificate, or a copy of any certificate:

“(e) An application for an exemption under this Act:

“(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 certificates of registration, required by him or her for the purpose of seeking registration 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 registered person.

“(3) Any notice prescribing any fee under this section may exempt any class or classes of person from liability to pay any such fee, and may provide for the waiver or refund of any such fee.

“Compare: 1995 No 95 s 126

“14B Disciplinary levy

“(1) The Board may from time to time, by notice in the *Gazette*, impose on every registered person a disciplinary levy of such amount as 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 this Act.

“(2) Any notice imposing any levy under this section may exempt from liability to pay such levy any class or classes of registered person, and may provide for the waiver or refund of any such levy.

“Compare: 1995 No 95 s 127

“14C Further provisions relating to fees and levy

“(1) Any notice under section 14A or section 14B may, by notice in the *Gazette*, be amended or revoked by the Board at any time.

“(2) Every notice under section 14A or section 14B 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*.

“(3) Every notice under section 14A or section 14B is a regulation for the purposes of the Regulations (Disallowance) Act 1989, but is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.

“(4) Every fee set under section 14A, and every levy imposed under section 14B, is payable, and recoverable as a debt due, to the Board.

“Compare: 1995 No 95 s 128”

6 Insurance of members of Board, etc

Section 16 of the principal Act is amended by omitting the words “section 12 or section 44”, and substituting the words “any contract or under section 44”.

7 Further provisions relating to Board in Schedule

The principal Act is amended by inserting, after section 18, the following section:

“18A

The provisions set out in the Schedule apply to the Board and its proceedings.”

8 Disciplinary powers of Board

Section 42(2)(c) of the principal Act is amended by omitting the expression “\$100”, and substituting the expression “\$10,000”.

9 Offences

Section 50(1) of the principal Act is amended by omitting the expression “\$500”, and substituting the expression “\$10,000”.

10 Exclusion of liability

The principal Act is amended by repealing section 62, and substituting the following section:

“62

- (1) Neither the Board, nor any committee appointed by the Board, nor an investigator appointed under section 40, nor an assessor appointed under section 44, 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.
- “(3) Subsection (1) does not exclude the liability of the Board in respect of a power that is conferred solely by section 5(2) or section 13.”

11 Regulations

Section 66(1) is consequentially amended by repealing paragraphs (d) and (i).

12 Schedule added

The principal Act is amended by adding the Schedule set out in the Schedule of this Act.

13 Revocation and saving

- (1) Regulation 11 and Schedule 8 of the Plumbers, Gasfitters, and Drainlayers Regulations 1977 (SR 1977/67) are consequentially revoked.
- (2) Despite subsection (1), the fees specified in the Plumbers, Gasfitters and Drainlayers Regulations 1977, as in force before the commencement of subsection (1), continue to be payable in respect of the matters specified in those regulations until the close of the day before the date on which the first notice under section 14A of the principal Act comes into force.

14 Transitional provisions relating to membership of Board

- (1) Despite section 3, the persons holding office immediately before the commencement of this Act as members of the Board—
- (a) Continue to hold office; but
- (b) Cease to be members of the Board—
- (i) When the first persons take office under section 6 of the principal Act (as enacted by this Act); or
- (ii) If no appointments are made under section 6 of the principal Act (as enacted by this Act) before

the expiry of the period of 1 year beginning on the commencement of this Act, on the expiry of that period.

- (2) The prohibition contained in section 6A(2) of the principal Act against being a member of the Board for more than 9 consecutive years does not apply to a member holding office immediately before the commencement of this section, but only for as long as that member—
 - (a) Continues to hold office under this section; or
 - (b) Holds office under an appointment made within 1 year beginning on that commencement.
- (3) Subsection (1) is subject to section 6B of the principal Act.
- (4) Subsection (1) does not apply to the officer of the Ministry of Health who held office under section 6(1)(i) of the principal Act (as in force immediately before the commencement of this Act), and that officer ceases to be a member of the Board on the commencement of this Act.

15 Consequential repeals

The following enactments are repealed:

- (a) Section 3 of the Plumbers, Gasfitters, and Drainlayers Amendment Act 1980:
 - (b) So much of Schedule 1 of the Local Government Amendment Act 1992 as relates to section 6 of the principal Act:
 - (c) Section 22(1) of the Plumbers, Gasfitters, and Drainlayers Amendment Act 1992.
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Schedule

Section 12

**New Schedule added to Plumbers,
Gasfitters, and Drainlayers Act 1976****Schedule**

Section 18A

**Provisions applying in respect of
Plumbers, Gasfitters, and Drainlayers
Board****1 Chairman and Deputy Chairman**

- (1) At its first meeting in each year, the Board must elect 1 of its members to be its Chairman, and another to be its Deputy Chairman.
- (2) A member who holds the office of Chairman or Deputy Chairman continues in office until his or her successor is elected, and is eligible for re-election (subject to section 6B).
- (3) A member who holds the office of Chairman or Deputy Chairman may—
 - (a) At any time be removed from the office of Chairman or Deputy Chairman 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 Chairman or Deputy Chairman ceases to be a member of the Board, the Board must elect 1 of its members to fill that vacancy in the office of Chairman or Deputy Chairman as soon as reasonably practicable.

Compare: 1995 No 95 Second Schedule, cl 1

2 Deputy Chairman may act for Chairman

- (1) The Deputy Chairman of the Board has and may exercise or perform all the functions, duties, and powers of the Chairman if—
 - (a) The Chairman of the Board is at any time incapable of acting as Chairman because of illness, absence, or any other reason; or
 - (b) There is a vacancy in the office of Chairman.
- (2) The Deputy Chairman is, while acting for the Chairman, to be regarded as the Chairman of the Board.

Schedule—*continued*

- (3) No act done by the Deputy Chairman while acting for the Chairman and no act done by the Board while the Deputy Chairman is acting for the Chairman, may in any proceedings be questioned on the ground that the occasion entitling the Deputy Chairman to act had not arisen or had ceased.

Compare: 1995 No 95 Second Schedule, cl 2

3 Meetings

- (1) Meetings of the Board are held at—
- (a) Times appointed by the Board; and
 - (b) Subject to clause 8, 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.

Compare: 1995 No 95 Second Schedule, cl 8

4 Members representing other members

- (1) A member of the Board may be represented by another member of the Board (that other member is in this clause referred to 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

Schedule—*continued*

- (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 Chairman or Deputy Chairman of the Board; or
 - (b) Vote on any matter arising under Part IV; 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.

Compare: 1993 No 95 Second Schedule, cl 5

5 Chairman to preside at meetings

- (1) The Chairman of the Board presides at each meeting of the Board if he or she is present and willing to preside.
- (2) If the Chairman is not present or willing to preside at a meeting of the Board, the Deputy Chairman, if present and willing to preside, presides.
- (3) If neither the Chairman nor the Deputy Chairman 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.

Compare: 1995 No 95 cl 9

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.

Schedule—*continued*

- (3) 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.
Compare: 1995 No 95 cl 10

7 Resolution assented to by members

- (1) The Chairman of the Board 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.
Compare: 1995 No 95 Second Schedule, cl 11

8 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(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—

Schedule—*continued*

- (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.

Compare: 1995 No 95 Second Schedule, cl 12

9 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 made under this Act, the Board may regulate its procedure in such manner as it thinks fit.

Compare: 1995 No 95 Second Schedule, cl 13

10 Appointment of committees

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

- (a) Any such committee may include or consist of persons who are not members of the Board; and

Schedule—*continued*

- (b) The Board must regulate the procedure of each such committee in such manner as it thinks fit; and
- (c) The Board may at any time discharge, alter, or reconstitute any such committee

Compare: 1995 No 95 Second Schedule, cl 14

11 Delegation

- (1) The Board may from time to time, by written notice, delegate any of its functions, duties, or powers (other than powers of decision concerning discipline under this Act) to any committee appointed under clause 10.
- (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.

Compare: 1995 No 95 Second Schedule, cl 15

12 Seal

- (1) The Board must provide for the safe custody of the common seal of the Board, which must be in such form as 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.

Schedule—*continued*

- (3) The seal of the Board must be judicially noticed in all courts and for all purposes.

Compare: 1995 No 95 Second Schedule, cl 19