

House of Representatives

Supplementary Order Paper

Tuesday, 21 November 2006

Energy Safety Review Bill

Proposed amendments

Hon Harry Duynhoven, in Committee, to move the following amendments:

Clause 2(1)

To insert after “**sections**” (line 8 on page 9) “**3**”.

To omit “, **29, 38A, 43(1), 45, 46, 50(1)**” (line 9 on page 9) and substitute “**to 29, 38A, 40, 43(1), 45, 46, 50**”.

Clause 6

Subclause (6): to add to the definition of **Plumbers, Gasfitters, and Drainlayers Board** (line 3 on page 14) “or continued under an enactment that, with or without modification, replaces, or that corresponds to, that Act”.

Subclause (6): to insert the following definition after the definition of **Plumbers, Gasfitters, and Drainlayers Board** (after line 3 on page 14):

“**practising licence** means a practising licence issued under **subpart 1 of Part 10**”

Subclause (6): to omit from *paragraph (b)* of the definition of **registered person** “treated under this Act as being” (line 10 on page 14) and substitute “deemed to be”.

To insert the following subclause after *subclause (8)* (after line 18 on page 14):

(8A) The definition of **supervision** in section 2(1) is amended by inserting “or, in the case of **section 76**, a person authorised to supervise work under that section” after “to do the work”.

Clause 11: new section 61A(1)

To omit “ensure the electricity supply system does not present” (lines 1 and 2 on page 18) and substitute “prevent the electricity supply system from presenting”.

Clause 12: new section 74

To insert the following subsection after *subsection (4)* (after line 30 on page 19):

- “(4A) **Subsection (1)** is subject to **subsections (3) and (4)** and **sections 75 to 79**.

Clause 12: new sections 76A and 76B

To insert the following sections after *new section 76* (after line 5 on page 21):

“76A Exemption for trainees

- “(1) A person may do, or assist in doing, any prescribed electrical work if—
- “(a) that work is within the limits prescribed in regulations made for the purposes of this section; and
 - “(b) the person is a trainee in relation to the work; and
 - “(c) the work done by that person is carried out in accordance with a limited certificate issued by the Board to the trainee under **section 76B**.
- “(2) In this section, **trainee**—
- “(a) means a person who is undergoing instruction or training in any class of prescribed electrical work for the purpose of obtaining registration as a registered person; and
 - “(b) includes an apprentice who is working in the electricity industry.
- “(3) This section does not prevent a trainee from doing, or assisting in doing, work under **section 76** (which allows work to be done under supervision).

“76B Board may issue limited certificate for purposes of section 76A

- “(1) The Board may, on payment of the prescribed fee (if any), issue to any person a limited certificate for the purposes of **section 76A**.
- “(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.

Clause 12: new section 84(1)

To insert the following paragraph after *paragraph (ba)* (after line 3 on page 27):

- “(bb) 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

Clause 12: new section 85

Paragraph (a): to omit this paragraph (lines 5 to 7 on page 28) and substitute the following paragraph:

- “(a) by requiring a degree or diploma or certificate of a stated kind recognised by the Board:

To add the following subsection as *subsection (2)* (after line 20 on page 28):

- “(2) However, the minimum standards for registration prescribed under **section 84** 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)**.

Clause 12: new section 85A

Paragraph (a)(iii): to omit this subparagraph (lines 29 to 31 on page 28) and substitute the following subparagraphs:

- “(iii) promote the competency of persons who do, or assist in doing, prescribed electrical work; 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

Paragraph (b): to insert after “registration” (lines 32 and 33 on page 28) “or licensing”.

Clause 12: new section 85B(1)(a)

To omit “Part” (line 7 on page 29) and substitute “Act”.

Clause 12: new section 86(1)(b)(ii)

To omit “photocopy” (line 11 on page 30) and substitute “copy”.

Clause 12: new section 87

Paragraph (d): to omit this paragraph (lines 28 to 30 on page 30) and substitute the following paragraph:

“(d) that he or she is a fit and proper person to be registered under this subpart; and

Clause 12: new section 94

To add the following subsection (after line 3 on page 36):

“(4) **Subsection (3)** is subject to the terms and conditions imposed under **section 94E** and to any regulations.

Clause 12: new section 94A

Paragraph (d): to omit this paragraph (lines 16 to 18 on page 36) and substitute the following paragraph:

“(d) that he or she is a fit and proper person to be issued with a practising licence; and

Clause 12: new section 97

Subsection (1)(d): to omit this paragraph (lines 30 and 31 on page 39) and substitute the following paragraph:

“(d) the person is a fit and proper person to hold a practising licence; and

To insert the following subsections after *subsection (1)* (after line 34 on page 39):

“(1A) 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.

“(1B) 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 a District Court against the decision.

Subsection (3): to add (line 2 on page 40) “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 84**”.

Clause 12: new section 97A

Subsection (1)(a)(i): to insert after “practising licence” (lines 16 and 17 on page 40) “or to obtain a renewal of a practising licence”.

Subsection (1)(b)(i): to insert after “practising licences” (lines 25 and 26 on page 40) “or to obtain renewals of practising licences”.

Clause 12: new section 100

To insert the following subsection after *subsection (2)* (after line 21 on page 42):

“(2A) 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 84** 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 84(1)(bb)**; or

“(d) the person is required to complete a competence programme under **Part 11** (which relates to discipline).

Clause 12: new section 102(5)

To omit “to 1 or more” (line 8 on page 46) and substitute “1 or more”.

Clause 12: new section 147D

To add the following subsection (after line 2 on page 77):

“(3) This section is subject to **section 147**.

Clause 12: new section 147E(1)(da)

To omit “that person” (line 27 on page 78) and substitute “the person”.

Clause 12: new section 147M

To insert the following subsection after *subsection (2)* (after line 23 on page 82):

“(2A) No appointed person is personally liable for any act or omission done, in good faith, in the performance or exercise or intended performance or exercise of his or her functions or powers under this Act.

Clause 12: new section 147Q(2)

To insert after “in respect of whom the” (line 20 on page 84) “decision or”.

Clause 12: new section 147R(1)

Paragraph (a): to omit this paragraph (lines 30 to 32 on page 84) and substitute the following paragraphs:

- “(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:
- “(ab) any decision of the Board to decline to issue a limited certificate under **section 76B** to the person or to decline to renew the limited certificate of the person:

Clause 12: new section 147S(a)

To insert after “given to” (line 12 on page 85) “, or served on,”.

Clause 14: new section 149

To insert the following paragraph after *paragraph (i)* (after line 10 on page 89):

- “(ia) to issue limited certificates under **Part 9** in proper cases:

Clause 19: new section 156B

Subsection (1): to omit “Unless this Act provides otherwise, if” (line 18 on page 92) and substitute “If”.

Subsection (2): to insert after “given to” (line 34 on page 92) “, or served on,”.

Subsections (3) and (4): to omit these subsections (line 38 on page 92 to line 5 on page 93) and substitute the following subsections:

- “(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.

Clause 22

New section 160: to omit “or licence or renewal of a licence” (line 20 on page 93) and substitute “, licence, renewal of a licence, or certificate”.

New section 163D(2): to insert after “possession of any” (line 26 on page 97) “limited certificate issued under **Part 9** or”.

Clause 25: new section 167(2)(c)

To omit “of registration” (line 28 on page 100).

Clause 28(1)

To insert after “by the Board” (lines 12 and 13 on page 106) “or, as the case may be, by the Minister”.

New clause 28A

To insert the following clause after *clause 28* (after line 22 on page 106):

- 28A Board must consider designating classes of registration that replace or correspond to former types of registration**
- (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

principal Act as in force immediately before the commencement of this section, 1 or more classes of registration under **section 82** of the principal Act that, with or without modification, replace, or correspond to, that type of registration:

- (a) registered electrical service technician;
 - (b) registered electrician;
 - (c) registered line mechanic;
 - (d) registered electrical inspector.
- (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 electrical workers, or classes of electrical workers, registered under the principal 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 82 to 86** of the principal Act.

Clause 30

Subclause (1): to omit “be a registered person” (line 6 on page 108) and substitute “be registered”.

To insert the following subclauses after *subclause (2)* (after line 17 on page 108):

- (2A) A person who is deemed to be registered under **subsection (1)** may be issued with a practising licence under **subpart 1 of Part 10** of the principal Act 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 94A(a) and (c) to (e)** of the principal Act.
- (2B) In considering the matter under **subsection (2A)(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 principal Act in relation to which, immediately before the commencement of this section, the person was registered (if any).

Subclause (3)(a): to omit “a registered person” (line 20 on page 108) and substitute “registered”.

Clause 30A

Subclause (2): to add (line 7 on page 109) “(but may be renewed under **subsection (4)**)”.

Subclause (3): to insert the following paragraph after *paragraph (b)* (after line 20 on page 109):

- (ba) authorise the person to supervise electrical work if the person was a supervisor of electrical work under the principal Act (as in force immediately before the commencement of this section); and

Subclause (4): to omit this subclause (lines 25 and 26 on page 109) and substitute the following subclauses:

- (4) 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 97(1)(a), (c) to (e), and (2) to (4)** of the principal Act.
- (4A) In considering the matter under **subsection (4)(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 principal Act in relation to which, immediately before the commencement of this section, the person was registered (if any).
- (4B) **Subsection (2)** is subject to **section 96(3)** of the principal Act.

Clause 33

To add the following subclause (after line 23 on page 111):

- (3) Any decision of the Board under this section may be appealed under **section 147R** of the principal Act.

Clause 37

Subclause (1): to omit “or a former registered person” (line 12 on page 113) and substitute “, former registered person, provisional licence holder, or former provisional licence holder”.

Subclause (3): to omit “or former registered person” (lines 21 and 22 on page 113) and substitute “, former registered person, provisional licence holder, or former provisional licence holder”.

Subclause (4): to omit “hold a practising licence issued” (lines 26 and 27 on page 113) and substitute “be registered”.

Subclause (4): to omit “**30A**” (line 29 on page 113) and substitute “**30**”.

Clause 38(1)(a)

To insert after “registered” (line 2 on page 114) “or held a licence”.

Clause 48: new section 46A(1)

To omit “ensure that the gas supply system does not present” (lines 14 and 15 on page 120) and substitute “prevent the gas supply system from presenting”.

Clause 59: new section 14

Subsection (1)(a): to insert the following subparagraph after *subparagraph (i)* (after line 19 on page 129):

“(ia) services carried out by the Department of Building and Housing under any Act or related arbitration services; or

Schedule 1

To omit from the item relating to the Summary Proceedings Act 1957 “(fb)” (line 14 on page 131) and substitute “(f)”.

To omit from the item relating to the Summary Proceedings Act 1957 “(fc)” (line 15 on page 131) and substitute “(fa)”.

Explanatory note

This Supplementary Order Paper amends the Energy Safety Review Bill to align that Bill with a number of changes that have been recommended by the Commerce Committee in relation to the Plumbers, Gasfitters, and Drainlayers Bill. For example,—

- a new exemption has been inserted in relation to trainees under *new sections 76A and 76B*. This exemption allows trainees to do, or assist in doing, prescribed electrical work under a limited certificate issued by the Electrical Workers Registration Board (the **Board**). Consequential changes have been made to *new sections 147R, 149, 160, and 163D*:
- *new section 85* (which relates to prescribing minimum standards for registration) is amended to provide that the Board may require a person to pass an examination or assessment set by the Board only if the person does not have a degree, diploma, or certificate recognised by the Board under the section:
- a new restriction has been inserted in *new section 100(2A)* to ensure that the Board requires a registered person to complete a competence programme only in appropriate circumstances. This provides that a registered person may be required to complete a competence programme only in accordance with a notice published under *new section 84* (whether by virtue of a prescribed condition, an applicable minimum standard for registration, or another requirement prescribed under that section) or *new Part 11* (which relates to discipline). The express link to a notice published under *new section 84* allows new checks and balances to apply (eg, the guiding principles in *new section 85A* and the need to obtain the Minister’s approval under *new section 85C*). Consequential amendments have been included in *new sections 84 and 97*:

- the Board is now required to consider designating classes of registration that replace or correspond to the types of registration that currently exist under the Electricity Act 1992 (*new clause 28A*):
- the transitional provision that deems a person to hold a practising licence under the new regime is amended to allow that licence to be renewed (*clause 30A*).

This Supplementary Order Paper also makes the following changes:

- the principles that guide the prescribing of registration and licensing matters in *new section 85A* are amended to expressly refer to promoting competency (in addition to protecting health and safety and promoting the prevention of damage to property):
- the provisions dealing with entitlement to registration, licences, and renewals of licences (*new sections 87, 94A, and 97*) have been changed to refer to a fit and proper person requirement:
- the provision dealing with the renewal of licences (*new section 97*) is amended to require the Board to notify an applicant of the Board's decision (including the applicant's right of appeal):
- the provision dealing with exemptions from registration and licensing requirements (*new section 97A*) is extended to apply to renewals of licences:
- the provision concerning persons appointed to assist investigators (*new section 147M*) is amended to clarify that, like investigators, appointed persons are not liable for acts or omissions done in good faith:
- the transitional provision that provides that persons who are currently registered under the Electricity Act 1992 will continue to be registered (*clause 30*) is amended in relation to those persons who do not currently hold a licence. The amendment clarifies that these persons may apply for, and be issued with, a practising licence in the future if they meet the standards reasonably to be expected of registered persons:
- the transitional provision concerning deemed practising licences (*clause 30A*) is amended to authorise a person to supervise work if that person is currently a supervisor of electrical work:
- *clause 37* (which concerns complaints about conduct before commencement of the clause) is amended to clarify that it concerns provisional licence holders as well as registered persons:
- the provision dealing with the purpose of levies under the Ministry of Energy (Abolition) Act 1989 (*clause 59*) has been amended to allow levies to be applied in relation to services carried out by the Department of Building and Housing. This change is as a result of the transfer of functions relating to the registration and licensing of electrical workers from the Ministry of Economic Development to the Department of Building and Housing:
- a number of minor drafting changes.

