

## Building (Plumbing) Bill

### EXPLANATORY MEMORANDUM

- Clause 1 states the main purposes of the Act.
- Clause 2 provides for the commencement of the Act. This section and section 1 come into operation on the day of Royal Assent. The remaining provisions come into operation on days to be proclaimed, or otherwise, in the case of section 6, on 31 December 2000, and in the case of any other provision, on 31 December 1999.
- Clause 3 inserts new Divisions 9 and 9A into Part 12A of the **Building Act 1993**. The new provisions of Divisions 9 and 9A are outlined below.

Proposed section 221ZZR provides for the establishment of the new Plumbing Industry Commission.

Proposed section 221ZZS provides that the new Plumbing Industry Commission is a body corporate with the usual powers of such a body.

Proposed section 221ZZT provides for the constitution of the Commission by a Commissioner appointed by the Governor in Council on the Minister's recommendation, and for the qualifications and for the terms and conditions of appointment of the Commissioner.

Proposed section 221 ZZU provides for the accountability of the Commission to the Minister.

Proposed section 221ZZV describes the functions of the Commission and provides for the Minister administering the **Gas Industry Act 1994** to give directions to the Commission.

Proposed section 221ZZW sets out the powers of the Plumbing Industry Commission, including its powers of delegation.

Proposed Section 221ZZX describes the powers of the Commission to appoint staff.

Proposed section 221ZZXA provides for the establishment of the Plumbing Industry Advisory Council.

Proposed section 221ZZXB provides for the appointment of members of the Council.

Proposed section 221ZZXC describes the functions of the Council, which include to advise the Minister and the Plumbing Industry Commission in relation to the plumbing industry.

Proposed section 221ZZXD provides that certain provisions of the **Building Act 1993** are to apply to the terms and conditions of appointment of the members of the Advisory Council and to the procedure of the Advisory Council.

Clause 4 Sub-clause (1) amends section 207(2) of the **Building Act 1993** to include the Plumbing Industry Commissioner on the Building Advisory Council.

Sub-clause (2) amends section 208 of the **Building Act 1993**, which sets out the functions of the Building Advisory Council, to exclude the provision of advice to the Minister on the administration of Part 12A of the Act and the regulations made under that Part of the Act, as the Plumbing Industry Advisory Council will have this function.

Clause 5 makes consequential amendments to the **Building Act 1993** required as a result of the establishment of the Plumbing Industry Commission and the Plumbing Industry Advisory Council. The definition of the Plumbing Industry Board is to be repealed and replaced by a definition of the Plumbing Industry Commission. Other definitions in Part 12A of the **Building Act 1993**, which refer to the Board, are to be amended to refer to the Plumbing Industry Commission. Wherever a section of the **Building Act 1993** refers to the Plumbing Industry Board this reference will be changed to the Plumbing Industry Commission.

Section 221ZZZO, which provides for changes to the composition of the Board while conducting an inquiry or taking disciplinary action, is to be repealed as this section is no longer required. Section 221ZZZS, which provides for the appointment of administrative staff by the Plumbing Industry Board, is to be repealed, as new section 221ZZX, in clause 3 of the Bill, will provide for the appointment of staff by the Plumbing Industry Commission.

- Clause 6 amends section 44 of the **Building Act 1993** to require that a relevant building surveyor must not issue an occupancy permit unless the building surveyor has seen a copy of the plumbing compliance certificate, if a certificate is required for plumbing work, carried out in conjunction with building work.
- Clause 7 amends sections 221B(3), 221D(4), 221E(2) and 221G(2) of the **Building Act 1993** to clarify the meaning of supervision of plumbing work for the purposes of Part 12A of the **Building Act 1993**, to ensure that the degree of supervision, direction and inspection involved is clearer.
- Clause 8 amends section 221D(5) of the **Building Act 1993** to remove the exemption that applies to refrigeration mechanics from the requirement to be licensed or registered under Part 12A of the Act to carry out plumbing work.
- Clause 9 amends sections 221T(3) and 221ZB(3) of the **Building Act 1993** to empower the Plumbing Industry Commission to require that applications for a licence or registration or a renewal of a licence or registration as a plumber must be accompanied by a photograph of the applicant.
- Clause 10 Sub-clause (1) amends section 221ZH to clarify the range of gas appliance installation plumbing work in respect of which a compliance certificate must be given.
- Sub-clause (2) amends section 221ZH to explain when plumbing work is considered to be completed for the purposes of the requirement that licensed plumbers issue a compliance certificate on completion of certain plumbing work and sets out the circumstances in which a separate compliance certificate is required in relation to gas installations.
- Clause 11 Sub-clause (1) amends section 221ZI to permit licensed plumbers to sign a compliance certificate where the plumber has only completed the work commenced by another plumber if he or she has inspected or tested the work carried out or supervised by the other plumber.
- Clause 12 inserts a new section 221ZLA in the **Building Act 1993** which requires that building practitioners must pass on compliance certificates received from licensed plumbers to the owner of the premises at which the plumbing work was carried out, as the

owner will be relying on the certificate to certify that the work on their premises has been carried out in accordance with the standards required under the Act. A penalty of 3 penalty units may be imposed for a failure to comply with these requirements.

- Clause 13 amends section 221ZP(3) of the **Building Act 1993** to require that plumbers must, as well as ensuring that the work is ready to be inspected, also ensure that he or she is present at a drainage inspection.
- Clause 14 inserts a new section 221ZPA in the **Building Act 1993** which requires that licensed or registered plumbers give certain identifying information to the person who commissioned the work before commencing work at a premises and, if the work requires the issue of a compliance certificate, give information on the insurance that applies to the work. A penalty of 10 penalty units may be imposed for a failure to comply.
- Clause 15 amends sections 221ZZZA and 221ZZZB of the **Building Act 1993** to give compliance auditors additional powers to require plumbers to attend any inspection of the work under examination by the auditor (with a penalty of 10 penalty units for a failure to comply) and also amends section 221ZZZB to correct references to the sub-sections of section 221ZZZA.
- Clause 16 inserts a new section 221ZZZBA in the **Building Act 1993** which authorises plumbing inspectors to require plumbers to attend inspections of works and imposes a penalty of 10 penalty units for a failure to comply.
- Clause 17 substitutes a new section 221ZZZE in the **Building Act 1993** which updates the infringement notice procedures to reflect the establishment of the new Plumbing Industry Commission structure and a new range of infringement penalties. For the purposes of the infringement notice procedures the Plumbing Industry Commissioner, plumbing inspectors, compliance auditors and any other person authorised by the regulations will be authorised officers. The infringement penalties are to be set in Schedule 5 of the Act, rather than in section 221ZZZE.
- Clause 18 inserts a new section 264 in the **Building Act 1993** which provides that Schedule 6, which makes provision for transitional

arrangements relating to the **Building (Plumbing) Act 1998**, has effect.

Clause 19 amends section 137B of the **Building Act 1993** in relation to the sale of buildings by owner-builders.

Clause 20 inserts a new Schedule 5 in the **Building Act 1993**, setting out a range of infringement penalties for offences under Part 12A of the Act. All, except for the penalty for section 221ZH of 5 penalty units, are new.

Clause 19 also inserts a new Schedule 6 in the **Building Act 1993** which makes transitional provisions required as a result of the establishment of the new Plumbing Industry Commission and as a result of the removal of the exemption from licensing or registration that applied to refrigeration mechanics. The person who is the Chairperson of the Plumbing Industry Board will be the first Plumbing Industry Commissioner. Refrigeration mechanics will have 12 months in which to qualify for a licence or registration with the Commission.

