

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

(a) to regulate the carrying out of plumbing and drainage work, including by prescribing the standards and requirements that must be complied with in carrying out such work, and

(b) to provide for a single plumbing regulator to oversee the regulation of plumbing and drainage work regardless of where the work is carried out in the State.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

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Clause 3 defines certain words and expressions used in the proposed Act. In particular, the terms **plumbing regulator** and the **responsible person** for plumbing and drainage work are defined. The **plumbing regulator** is the Director-General of the Department of Services, Technology and Administration. The **responsible person** for plumbing and drainage work is the person who:

(a) is carrying out the plumbing and drainage work in the person's capacity as the holder of an appropriate licence under the *Home Building Act 1989*, or

(b) if the person carrying out the work is doing the work on behalf of the holder of an appropriate licence under the *Home Building Act 1989*, the holder of the licence.

Clause 4 defines the term **plumbing and drainage work** for the purposes of the proposed Act.

Part 2 Plumbing and drainage work

Division 1 General requirements for plumbing and drainage work

Clause 5 provides that the responsible person for plumbing and drainage work must ensure the work complies with certain standards and other requirements.

Clause 6 provides that the responsible person for plumbing and drainage work must ensure the fittings used in the work are fittings that have been authorised by the plumbing regulator.

Division 2 Notice of work for plumbing and drainage work

Clause 7 provides that a person must not carry out plumbing and drainage work unless the responsible person for the work has given the plumbing regulator notice of the work. The requirement to give notice does not apply in certain circumstances such as if the work is done in an emergency.

Clause 8 provides that if the responsible person for plumbing and drainage work becomes aware, in the course of carrying out that work, that an existing plumbing installation, sanitary plumbing system, drainage installation or sanitary drainage system is defective, the responsible person must notify the owner and occupier of the land. If the defective installation or system poses an imminent risk to public health or safety the responsible person must also notify the plumbing regulator.

Division 3 Inspection of plumbing and drainage work

Clause 9 provides for the inspection of plumbing and drainage work by the plumbing regulator. Before, or as soon as practicable after, completing plumbing and drainage work the responsible person for the work must notify the plumbing regulator when the work will be ready for inspection. The plumbing regulator then

advises the responsible person of a period during which the work must be available

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for inspection and the responsible person must ensure the work is ready for inspection during that period and be present for the inspection during that period.

Clause 10 provides that the plumbing regulator may issue directions to the responsible person for plumbing and drainage work requiring the responsible person to fix any defects in the work.

Division 4 Obligation to supply certificates and plans

Clause 11 provides that the responsible person for plumbing and drainage work must, after completing the work, give a certificate of compliance for the work to the plumbing regulator and the owner of the premises on which the work was done. The certificate certifies that the plumbing and drainage work complies with the standards and other requirements of section 5 of the proposed Act.

Clause 12 provides that after completing work on a sanitary drainage system, the responsible person for the work must supply a plan of the work to the owner of the land and either the plumbing regulator or the local council for the area in which the work has been carried out.

Division 5 Obligation of land owners and occupiers

Clause 13 provides that if the owner or occupier of land has control of a water service or sewerage installation located on the land the owner or occupier must take all reasonable steps to ensure the service or installation does not threaten public health or safety.

Part 3 Plumbing regulator

Clause 14 provides that the plumbing regulator may, by order published on the regulator's website, authorise a fitting for plumbing and drainage work.

Clause 15 provides that the plumbing regulator may exempt a person, or a class of persons, from certain requirements of the proposed Act including the requirement to give certain notices or to use only authorised fittings for plumbing and drainage work.

Clause 16 provides that the plumbing regulator may, at any reasonable time, inspect a service pipe that is connected to a water main or any drain connected to a sewer main.

Clause 17 provides that the plumbing regulator may delegate any of the regulator's functions to a local council or to any other person the regulator considers has the necessary skills, knowledge or experience to exercise the function. The council may subdelegate a function delegated to the council to the general manager of the council or a person engaged as a contractor by the council.

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Part 4 Entry on to land and other powers

Clause 18 provides that a person (an *authorised person*) authorised by the plumbing regulator may, for the purposes of enabling the regulator to exercise the regulator's functions, enter premises during daytime hours or at a time when business is carried out at the premises.

Clause 19 provides that the power to enter premises does not apply to any part of the premises being used for residential purposes unless the occupier of that part of the premises has given consent or the entry is authorised by a search warrant.

Clause 20 provides that power to enter premises may not be exercised by a person unless the person has in the person's possession a written authority issued by the plumbing regulator and produces the authority if required to do so by the owner or occupier of the premises. This restriction does not apply if the premises are entered

under a search warrant.

Clause 21 provides that before an authorised person enters premises the plumbing regulator must give the owner or occupier of the premises written notice of the intention to enter. This requirement does not apply in certain circumstances such as if the entry is with the consent of the owner or occupier, the entry is for the purposes of carrying out an inspection of plumbing and drainage work for which the regulator has been given notice by the responsible person or the entry is required because of a serious risk to health or safety.

Clause 22 provides that an authorised person may use reasonable force to enter premises, if authorised to do so by the plumbing regulator.

Clause 23 provides that if an authorised person uses force to enter premises or enters the premises in an emergency the authorised person must advise the plumbing regulator of that fact.

Clause 24 provides for the powers an authorised person may exercise after entering premises, including, for example, inspecting any article, matter or thing on the premises, taking samples and measurements and requiring any person at the premises to give the authorised person reasonable help or to answer questions or otherwise furnish information.

Clause 25 provides that an authorised person must do as little damage as possible in exercising a function under the proposed Part.

Clause 26 provides for the plumbing regulator to recover the costs of entering and inspecting premises from the owner or occupier of the premises, or the responsible person for the plumbing and drainage work the subject of the inspection.

Clause 27 provides that the plumbing regulator must pay compensation for any damage caused by an authorised person unless the damage arises from work that reveals there has been a contravention of the proposed Act or any other Act or regulations.

Clause 28 provides for the application for, and issuing of, search warrants to enter premises and search for evidence of a contravention of the proposed Act or regulations made under that Act.

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Clause 29 provides that a person must not hinder or obstruct an authorised person in exercising the authorised person's functions.

Part 5 Legal proceedings

Division 1 Appeals

Clause 30 provides for appeals to the Land and Environment Court against certain decisions of the plumbing regulator.

Division 2 Injunctions

Clause 31 provides power for the Land and Environment Court to grant an injunction restraining a person from engaging in plumbing or drainage work that constitutes or may constitute a serious risk to public health or safety or a serious risk to the public.

Division 3 Penalty notices

Clause 32 provides for the issuing of penalty notices.

Clause 33 provides that the prosecution or conviction of a person for an offence does not prevent the plumbing regulator taking civil proceedings in relation to the same matter.

Division 4 Proceedings

Clause 34 provides that proceedings for an offence against the proposed Act are to be dealt with summarily before the Local Court or the Land and Environment Court.

Clause 35 provides for a certificate signed by the plumbing regulator to be prima facie evidence of the matters stated in it.

Division 5 Liability for offences

Clause 36 provides that it is an offence for a person to provide false or misleading documents under the proposed Act.

Clause 37 provides that a person who aids or abets a person to commit an offence is guilty of the same offence and liable to be punished accordingly.

Clause 38 provides that if a corporation contravenes a provision of the proposed Act or the regulations made under that Act each person who is a director of the corporation or who is concerned in its management is taken to have contravened the provision.

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Part 6 Miscellaneous

Clause 39 provides that a person must not disclose information obtained in connection with the administration or execution of the proposed Act except in certain circumstances.

Clause 40 provides for the plumbing regulator to share information with local councils, network utility operators and the Department of Health.

Clause 41 provides that persons exercising functions under the proposed Act do not incur personal liability for acts done or omitted to be done in good faith under that Act.

Clause 42 provides for the continuing effect of directions given under the proposed Act or regulations made under that Act.

Clause 43 provides for the service of notices and directions under the proposed Act.

Clause 44 enables the Governor to make regulations for the purposes of the proposed Act.

Clause 45 provides for the review of the proposed Act in 2 years.

Schedule 1 Savings, transitional and other provisions

Schedule 1 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

Schedule 2 Amendment of legislation

Schedule 2 amends the Acts and regulations specified in the Schedule.

Schedule 3 Additional amendments to other legislation

Schedule 3 amends the Act and regulation specified in the Schedule.