

# CONCURRENCE COPY

## PLUMBERS, GASFITTERS AND DRAINERS (AMENDMENT) BILL, 1984 (No. 2)

### EXPLANATORY NOTE

#### (This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are to amend the Plumbers, Gasfitters and Drainers Act, 1979 ("the Act"), so as—

- (a) to reconstitute the Plumbers, Gasfitters and Drainers Board ("the Board"), so that it will consist of 8 instead of 10 members (Schedule 1);
- (b) to make it clear that the expression "plumbing work" includes roof plumbing work (Schedule 2 (2) (a));
- (c) to provide that the Board is to be subject to the control and direction of the Minister (Schedule 2 (3));
- (d) to enable a restriction in relation to a licence, certificate of registration or contractor's authority to be imposed or varied at the request or with the consent of the applicant for or holder of the instrument (Schedule 2 (4) (a), (7) (a));
- (e) to provide that a determination of the Board imposing or varying a restriction on a licence, certificate of registration or contractor's authority does not take effect unless a notice has been served on the holder and either—
  - (i) the time for appealing has passed and any appeal has been disposed of; or
  - (ii) the holder has requested or consented to the determination being made, and to require the holder to lodge the licence, certificate of registration or contractor's authority with the Board, for endorsement, immediately after the determination takes effect (Schedule 2 (4) (b), (7) (b));
- (f) to require the holder of a licence, certificate of registration or contractor's authority to notify the Board of prescribed information or changes (Schedule 2 (5), (8));
- (g) to empower the Board to grant exemptions, in special circumstances, from the requirement that there be a nominated licensee or nominated licensees in relation to a contractor's authority (Schedule 2 (9));
- (h) to provide that a complaint may be made that a member of a firm, or director of a corporation, that is the holder of a contractor's authority is not a fit and proper person to be such a member or director (Schedule 2 (11) (a), (c));

- (i) to empower the Board to amend notices issued by it in relation to complaints made to it (Schedule 2 (12));
- (j) to enable the Board to terminate a suspension previously imposed by it (Schedule 2 (13));
- (k) to enable a stipendiary magistrate, on application, to authorise suspension of a licence or contractor's authority in a case where there is a serious threat to the public interest (Schedule 2 (14));
- (l) to authorise the Board to issue rectification orders for defective work carried out by the holder or former holder of a licence or contractor's authority (Schedule 2 (15));
- (m) to remove the requirement that the Treasurer's approval be obtained before the Board appropriates any part of the Education Fund (Schedule 2 (16));
- (n) to make it clear that the registers kept by the Board under the Act may be kept in such form or medium as the Board thinks appropriate (Schedule 2 (17));
- (o) to allow the Board to refund—
- (i) the fee paid when a complaint is lodged; or
  - (ii) the fee paid in respect of a certificate of competency when an application for a certificate is refused or withdrawn,
- (Schedule 2 (18));
- (p) to provide for certificate evidence of failure to notify the Board of certain matters (Schedule 2 (19)); and
- (q) to enable the regulations to exempt classes of cases, and the Board to exempt specific cases, from the provisions of section 72 of the Act that forbid a person who is not the holder of a contractor's authority or other instrument under the Act from entering into contracts involving plumbing, gasfitting or drainage work (Schedule 2 (21) (b)),

and to make other provisions of a minor, consequential or ancillary nature.

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**PLUMBERS, GASFITTERS AND DRAINERS (AMENDMENT)  
BILL, 1984 (No. 2)**

No.           , 1984.

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**A BILL FOR**

An Act to amend the Plumbers, Gasfitters and Drainers Act, 1979, so as to reconstitute the Plumbers, Gasfitters and Drainers Board and to make further provision with respect to licences, certificates of registration and contractors' authorities under that Act, and for other purposes.

[MR PACIULLO—2 *May*, 1984.]

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*Plumbers, Gasfitters and Drainers (Amendment).*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**5 Short title.**

1. This Act may be cited as the "Plumbers, Gasfitters and Drainers (Amendment) Act, 1984".

**Commencement.**

2. (1) Except as provided by this section, this Act shall commence on 10 the date of assent to this Act.

(2) Section 5, in its application to a provision of Schedule 1 or 2, shall commence on the day on which the provision commences.

(3) Schedule 1 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation 15 published in the Gazette.

(4) The several provisions of Schedule 2 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(5) For the purpose only of enabling the Plumbers, Gasfitters and 20 Drainers Board to be constituted in accordance with the Principal Act, as amended by this Act, on or after (but not before) the day appointed and notified under subsection (3), appointments may be made under section 7 of the Principal Act, as amended by this Act, and any other act, matter or thing may be done, before that day as if the whole of this Act commenced on 25 the date of assent to this Act.

**Principal Act.**

3. The Plumbers, Gasfitters and Drainers Act, 1979, is referred to in this Act as the Principal Act.

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*Plumbers, Gasfitters and Drainers (Amendment).*

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**Schedules.**

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE CONSTITUTION OF THE BOARD.

5 SCHEDULE 2.—FURTHER AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 3.—SAVINGS AND TRANSITIONAL PROVISIONS.

**Amendment of Act No. 44, 1979.**

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

**10 Savings and transitional provisions.**

6. Schedule 3 has effect.

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SCHEDULE 1.

(Sec. 5.)

15 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION  
OF THE BOARD.

(1) Section 7 (1)—

Omit the subsection, insert instead:—

(1) The Board shall consist of 8 members, appointed by the  
Governor, of whom—

20 (a) one shall be appointed as Chairman of the Board by the  
instrument of appointment or by a subsequent instrument  
executed by the Governor;

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION  
OF THE BOARD—*continued.*

- (b) one shall be—
- 5           (i) an officer of the Department of Public Works  
            nominated by the Minister for Public Works;
- (ii) an officer of The Metropolitan Water Sewerage and  
            Drainage Board nominated by the Minister for Natural  
            Resources; or
- 10           (iii) an officer of The Hunter District Water Board  
            nominated by the Minister for Natural Resources,  
            in rotation, as prescribed;
- (c) one shall be an officer of the Department of Technical and  
Further Education nominated by the Minister for Education;
- 15           (d) one shall be a person chosen by the Minister from a panel  
            of 3 persons resident in New South Wales and nominated by  
            the Federal Executive of the Plumbers and Gasfitters  
            Employees' Union of Australia;
- 20           (e) one shall be a person chosen by the Minister from a panel  
            of 3 persons nominated by the Executive Committee of The  
            Master Plumbers and Mechanical Contractors Association  
            of N.S.W.;
- (f) one shall be a person chosen by the Minister from a panel  
            of 3 persons nominated by the Board of the Australian Gas  
25           Association;
- (g) one shall be a person chosen by the Minister from a panel  
            of 3 persons who shall be members of the Australian Institute  
            of Health Surveyors and who shall be nominated jointly by  
            the Executive Committee of the Local Government  
            Association of New South Wales, the Executive Council  
30           of the Shires Association of New South Wales and the State  
            Council of the Australian Institute of Health Surveyors; and
- (h) one shall be a person nominated by the Minister to represent  
            consumers of plumbing, gasfitting and draining services.

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION  
OF THE BOARD—*continued.*

- (2) Section 7 (2)—  
5 Omit “(j)”, insert instead “(h)”.

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SCHEDULE 2.

(Sec. 5.)

FURTHER AMENDMENTS TO THE PRINCIPAL ACT.

- (1) (a) Section 3—  
10 From the matter relating to Part IV, omit “32”, insert instead  
“32A”.
- (b) Section 3—  
From the matter relating to Part V, omit “40”, insert instead  
“40A”.
- 15 (c) Section 3—  
After the matter relating to Part V, insert:—  
PART VA.—RECTIFICATION ORDERS—*ss.* 40B, 40C.
- (2) (a) Section 4 (1), definition of “plumbing work”—  
After the definition of “nominated licensee”, insert:—  
20 “plumbing work” includes roof plumbing work;
- (b) Section 4 (2) —  
After “authority,”, insert “a reference to”.

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 4 (5)—

After section 4 (4), insert:—

- 5 (5) A reference in this Act to plumbing work or gasfitting work, where the word “work” does not immediately follow the word “plumbing” or “gasfitting”, is a reference to plumbing work or gasfitting work as defined in subsection (1).

(3) Section 9 (2)—

10 At the end of section 9, insert:—

(2) In the performance of the functions conferred or imposed on it by or under this or any other Act (except in relation to the content of a report or recommendation made by it to the Minister), the Board shall be subject to the control and direction of the Minister.

15 (4) (a) Section 16 (1B)—

Omit the subsection, insert instead:—

20 (1B) The Board shall not, pursuant to subsection (1) or (1A), make a determination to impose a restriction on a licence or certificate of registration or to vary a restriction subject to which a licence or certificate of registration is held unless—

(a) it has—

- 25 (i) by notice in writing served on the applicant for, or holder of, the licence or certificate of registration, informed the applicant or holder that it is considering imposing that restriction or making that variation and of its reasons for so doing; and



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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (ii) given the applicant or holder a reasonable opportunity to show cause why the restriction should not be imposed or the variation made; or
- (b) the applicant or holder has, in writing, either requested or consented to the imposing of the restriction or the making of the variation.

(b) Section 16 (2A)–(2C)—

10 Omit section 16 (2A), insert instead:—

(2A) A determination of the Board to impose a restriction on a licence or certificate of registration or to vary a restriction subject to which a licence or certificate of registration is held has no force or effect—

15 (a) except as provided by paragraph (b)—until notice of the determination is served on the applicant for, or holder of, the licence or certificate of registration and the time limited for appealing against the Board's determination has expired and, where within that time  
20 an appeal against the determination has been made under section 41, until the appeal has been dealt with or withdrawn; or

(b) where the applicant for, or holder of, the licence or certificate of registration has, in writing, either requested  
25 or consented to the imposing of the restriction or the making of the variation—until notice of the determination is served on that applicant or holder.

(2B) Where, pursuant to subsection (1A), the Board varies or imposes a restriction on a licence or certificate of registration  
30 and no appeal against the Board's determination has been made

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

within the time limited for appealing against it or such an appeal is made but is withdrawn, that holder shall—

5 (a) where such an appeal is made but is withdrawn after the expiration of that time, immediately after the appeal is withdrawn; or

(b) in any other case, immediately after the expiration of that time,

10 lodge the licence or certificate of registration with the Board for endorsement or amendment of an existing endorsement, as the case may require, unless it was lodged for that purpose under subsection (2c).

Penalty: \$500.

15 (2c) Where, pursuant to subsection (1A), the Board varies or imposes a restriction on a licence or certificate of registration and the holder of the licence or certificate of registration has, in writing, either requested or consented to the imposing of the restriction or the making of the variation, that holder shall,  
20 immediately after notice of the determination is served on that holder, lodge the licence or certificate of registration with the Board for endorsement or amendment of an existing endorsement.

Penalty: \$500.

25 (5) Section 20B—

After section 20A, insert:—

**Holder of licence or certificate of registration to notify Board of certain matters.**

30 20B. A holder of a licence or certificate of registration shall, within the prescribed period, notify the Board of any prescribed information or of any change in any prescribed particulars.

Penalty: \$200.

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(6) (a) Section 24 (1) (d) (vii)—

Omit “and”.

5 (b) Section 24 (1) (d1)—

After section 24 (1) (d), insert:—

(d1) where the application is made by—

10 (i) a firm—each member of the firm, being an individual, or each director of any corporation that is a member of the firm; or

(ii) a corporation—each director of the corporation,

has furnished to the Board such information as may be prescribed; and

(7) (a) Section 26 (1B)—

15 Omit the subsection, insert instead:—

(1B) The Board shall not, pursuant to subsection (1) or (1A), make a determination to impose a restriction on a contractor’s authority or to vary a restriction subject to which a contractor’s authority is held unless—

20 (a) it has—

(i) by notice in writing served on the applicant for, or holder of, the contractor’s authority, informed the applicant or holder that it is considering imposing that restriction or making that variation and of its reasons for so doing; and

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(ii) given the applicant or holder a reasonable opportunity to show cause why the restriction should not be imposed or the variation made; or

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (b) the applicant or holder has, in writing, either requested or consented to the imposing of the restriction or the making of the variation.

(b) Section 26 (2A)–(2C)—

Omit section 26 (2A), insert instead:—

10 (2A) A determination of the Board to impose a restriction on a contractor's authority or to vary a restriction subject to which a contractor's authority is held has no force or effect—

15 (a) except as provided by paragraph (b)—until notice of the determination is served on the applicant for, or holder of, the contractor's authority and the time limited for appealing against the Board's determination has expired and, where within that time an appeal against the determination has been made under section 41, until the appeal has been dealt with or withdrawn; or

20 (b) where the applicant for, or holder of, the contractor's authority has, in writing, either requested or consented to the imposing of the restriction or the making of the variation—until notice of the determination is served on that applicant or holder.

25 (2B) Where, pursuant to subsection (1A), the Board varies or imposes a restriction on a contractor's authority and no appeal against the Board's determination has been made within the time limited for appealing against it or such an appeal is made but is withdrawn, that holder shall—

30 (a) where such an appeal is made but is withdrawn after the expiration of that time, immediately after the appeal is withdrawn; or

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) in any other case, immediately after the expiration of that time,

5 lodge the contractor's authority with the Board for endorsement or amendment of an existing endorsement, as the case may require, unless it was lodged for that purpose under subsection (2c).

Penalty: \$500.

10 (2c) Where, pursuant to subsection (1A), the Board varies or imposes a restriction on a contractor's authority and the holder of the contractor's authority has, in writing, either requested or consented to the imposing of the restriction or the making of the variation, that holder shall, immediately after  
15 notice of the determination is served on that holder, lodge the contractor's authority with the Board for endorsement or amendment of an existing endorsement.

Penalty: \$500.

(8) Section 31 (2), (3)—

20 Before the penalty at the end of section 31, insert:—

(2) A holder of a contractor's authority shall, within the prescribed period, notify the Board of any prescribed information or of any change in any prescribed particulars.

(3) Where the holder of a contractor's authority is—

25 (a) a firm—each member of the firm, being an individual, or each director of any corporation that is a member of the firm; or

(b) a corporation—each director of the corporation,

shall, within the prescribed period, notify the Board of any prescribed information or of any change in any prescribed particulars.

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (9) Section 32A—

After section 32, insert:—

5 **Exemption from requirements as to nominated licensees.**

32A. (1) Where the Board is satisfied that there are special circumstances that warrant its so doing, the Board may, by order, exempt an applicant for or holder of a contractor's authority from any requirements of this Act that there be a nominated licensee or nominated licensees in relation to the contractor's authority.

10

(2) While an exemption under this section is in force in relation to a contractor's authority, so much of this Act as relates to a nominated licensee or nominated licensees shall be deemed not to apply to or in respect of the applicant for or holder of the contractor's authority.

15

(3) An exemption under this section may be unconditional or may be subject to such conditions as the Board may, by order, determine.

## (10) (a) Section 33 (1) (g)—

20 Omit "or" where lastly occurring.

## (b) Section 33 (1) (h)—

Omit "Act.", insert instead "Act; or".

## (c) Section 33 (1) (i)—

After section 33 (1) (h), insert:—

25 (i) without reasonable cause, fails to comply with an order under section 40c served on that holder.

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (11) (a) Section 34 (b) (ii), (iia)—

Omit section 34 (b) (ii), insert instead:—

5

(ii) the firm has been guilty of improper conduct;

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(iia) any of the members of the firm or any director of a corporation that is a member of the firm is not a fit and proper person to be a member of the firm or a director of the corporation or (without limiting the generality of the foregoing provisions of this subparagraph) has been guilty of improper conduct;

## (b) Section 34 (b) (iv)—

Omit the subparagraph, insert instead:—

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(iv) the firm is not capable of carrying on the business of a contractor undertaking the carrying out of work that is authorised work in relation to that firm;

## (c) Section 34 (c) (ii), (iia)—

Omit section 34 (c) (ii), insert instead:—

20

(ii) the corporation has been guilty of improper conduct;

(iia) any of the directors of the corporation is not a fit and proper person to be a director of the corporation or (without limiting the generality of the foregoing provisions of this subparagraph) has been guilty of improper conduct;

25

## (d) Section 34 (c) (iv)—

Omit the subparagraph, insert instead:—

(iv) the corporation is not capable of carrying on the business of a contractor undertaking the carrying out of work that is authorised work in relation to that corporation;

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (12) (a) Section 38 (4) (b) (iv)—  
Omit “and”.
- 5 (b) Section 38 (4) (b) (v)—  
Omit “oath.”, insert instead “oath; and ”.
- (c) Section 38 (4) (b) (vi)—  
After section 38 (4) (b) (v), insert:—
- 10 (vi) may amend a notice served under section 37 (1) or (4),  
and in particular may omit, vary or add particulars of  
the grounds upon which the defendant is required to show  
cause and vary any defects in such a notice.
- (d) Section 38 (4A)—  
After section 38 (4), insert:—
- 15 (4A) Without limiting the power of the Board or member  
or members before whom an inquiry under this Part is held,  
where a notice is amended under subsection (4) (b) (vi), the  
Board, member or members shall grant such an adjournment of  
the inquiry as in the circumstances is just and equitable.
- 20 (13) Section 40 (9)—  
After section 40 (8), insert:—
- 25 (9) The Board may, on such terms and conditions (if any) as it  
thinks fit, terminate a suspension referred to in subsection (1), if the  
Board is satisfied that the circumstances of the case warrant its doing  
so.



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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (14) Section 40A—

After section 40, insert:—

5 **Emergency suspension of licence or authority.**

40A. (1) In this section—

“authorised officer” means an officer of the Board authorised by the Board for the purposes of this section;

“instrument” means a licence or contractor’s authority.

10 (2) Where, upon application by the Chairman or an authorised officer, a stipendiary magistrate is satisfied from the information contained in the application that—

(a) the Board has made a determination under section 40 that an instrument be suspended or cancelled;

15 (b) the determination has no force and effect by reason of the provisions of section 40 (5); and

(c) there are reasonable grounds for believing that the continued carrying on of business by the holder of the instrument may constitute a serious threat to the public interest by reason of the incompetence of or misconduct by the holder of the  
20 instrument,

the stipendiary magistrate may authorise the Chairman or authorised officer to suspend the instrument and any subsequent renewal thereof.

25 (3) The Chairman or an authorised officer referred to in subsection (2) effects a suspension so referred to by giving to the holder of the instrument notice in writing that the instrument and any subsequent renewal thereof have been suspended.

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) A suspension under this section terminates—

5 (a) when the determination of the Board referred to in sub-section (2) takes effect by reason of the provisions of section 40 (5); or

(b) if the Board gives a direction in writing to that effect to the holder of the instrument,

whichever first occurs.

10 (5) A suspended instrument under this section has no force or effect during the period of suspension.

(15) Part VA—

After Part V, insert:—

PART VA.

15 RECTIFICATION ORDERS.

**Interpretation.**

40B. In this Part—

20 “affected party”, in relation to any defective work referred to in section 40C, means any person whom the Board considers to be adversely affected by the defective work;

25 “former holder”, in relation to an instrument, means an individual, firm or corporation who or which, at any time during a period of 5 years before an order is made in respect of that individual, firm or corporation under section 40C, has been a holder of the instrument and has ceased to hold the instrument;

“instrument” means a licence or contractor’s authority.

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.***Rectification orders.**

5 40C. (1) Where the Board, on such information as to it seems sufficient, is of the opinion that any work carried out by the holder or former holder of an instrument, being work—

(a) that is or was authorised work in relation to that holder or former holder; and

10 (b) to which a complaint under section 34 or 35 relates or that is the subject of investigations referred to in section 37 (4),

15 is defective, the Board may, before causing a notice under section 37 (1) or (4) to be served on that holder or former holder, make an order, in writing, requiring that holder or former holder to rectify, or cause to be rectified, the defective work to the satisfaction of the Board within such period as may be specified in the order.

(2) An order under subsection (1) may be made subject to compliance by any affected party with such directions specified in the order as to the Board seem proper to enable the order to be complied with.

20 (3) The making of an order by the Board under subsection (1) in respect of the holder or former holder of an instrument does not limit or affect in any way the power of the Board to deal with that holder or former holder under Part V in respect of the work the subject of the order, but the Board shall not cause a notice under  
25 section 37 (1) or (4) to be served on that holder or former holder in respect of that work unless the time for compliance with the order under subsection (1) has expired, and if the Board does cause a notice under section 37 (1) or (4) in respect of that work to be served on that holder or former holder it shall, in dealing with that  
30 holder or former holder under Part V, take into consideration whether that holder or former holder—

(a) has rectified, or caused to be rectified, the defective work to which the order relates in accordance with the terms of the order; or

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (b) has been prevented from complying with the order by reason of the failure of any affected party to comply with any directions referred to in subsection (2) and specified in the order.

(4) A reference in this section to defective work is a reference to work—

10 (a) that has been carried out otherwise than in a good and workmanlike manner;

(b) in the course of the carrying out of which any faulty or unsuitable materials have been used;

15 (c) that has been carried out in contravention of any provision of any Act, regulation, by-law, ordinance or rule applicable to the carrying out of the work; or

(d) that, without reasonable cause, has been carried out otherwise than in accordance with any contract in accordance with which the holder or former holder of the instrument contracted to carry out the work.

20 (16) Section 47 (2)—

Omit “, with the approval of the Treasurer,”.

(17) (a) Section 51 (1)—

After “shall” where firstly occurring, insert “, in such form or medium as the Board thinks fit,”.

25 (b) Section 51 (1)—

After “which”, insert “, or information from which,”.

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (18) (a) Section 54 (1A), (1B)—

After section 54 (1), insert:—

5 (1A) The Board may, in such circumstances as it thinks appropriate, refund to a person who has made a complaint under Part V, or to any other person who appears entitled thereto, the whole or any part of the fee which accompanied the complaint.

10 (1B) Where an application for a certificate of competency is refused or withdrawn, the Board may refund to the applicant, or to any other person who appears entitled thereto, the whole or any part of the fee which has been paid by the applicant.

## (b) Section 54 (2)—

15 After “(1)”, insert “, (1A) or (1B)”.

## (19) (a) Section 62 (c1)—

After section 62 (c), insert:—

20 (c1) that the Board was or was not, during a period so specified, notified by the holder of a licence or a certificate of registration so specified of any information or change, referred to in section 20B, that is so specified;

## (b) Section 62 (d)—

After “any”, insert “information or”.

## (c) Section 62 (d1)—

25 After section 62 (d), insert:—

(d1) that the Board was or was not, during a period so specified, informed by the holder of a contractor’s authority so specified, that the contractor’s authority has ceased to be in force by virtue of section 32 (1);

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(20) (a) Section 68A (e)—  
Omit “or”.

5 (b) Section 68A (f)—  
Omit “1961.”, insert instead “1961; or”.

(c) Section 68A (g)—  
After section 68A (f), insert:—  
(g) the Dangerous Goods Act, 1975,

10 (21) (a) Section 72 (1A)—  
At the end of the subsection, insert “Penalty: \$2,000.”.

(b) Section 72 (3), (4)—  
Omit section 72 (3), insert instead:—

15 (3) The provisions of subsections (1), (1A) and (2) do not, to the extent specified in the regulations, apply in such classes of cases or of circumstances as may be prescribed.

20 (4) The provisions of subsections (1), (1A) and (2) do not, to the extent determined by the Board, apply in such cases or circumstances as the Board, having regard to such special circumstances as it thinks appropriate, may by order determine.

(22) Section 72A—  
Omit “his”, insert instead “the person’s”.

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*Plumbers, Gasfitters and Drainers (Amendment).*


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## SCHEDULE 3.

(Sec. 6.)

## SAVINGS AND TRANSITIONAL PROVISIONS.

**Members of the Board.**

- 5 1. (1) A person who, immediately before the day appointed and notified under section 2 (3), held office as a member of the Plumbers, Gasfitters and Drainers Board as referred to in section 7 (1) (a), (c), (h), (i) or (j) of the Principal Act—
- (a) shall be deemed to have been duly appointed on that day as a member of  
10 that Board as referred to in section 7 (1) (a), (c), (e), (f) or (g) of the Principal Act, as amended by this Act, respectively;
- (b) shall be deemed to have been so appointed—
- (i) upon the same terms and conditions as those applicable to the person  
15 immediately before that day; and
- (ii) for the residue of the term of office for which the person was appointed; and
- (c) is eligible (if otherwise qualified) for appointment under the Principal Act, as amended by this Act, with effect from the expiration of that term or from any subsequent time.
- 20 (2) A person who, immediately before the day appointed and notified under section 2 (3), held office as a member of the Plumbers, Gasfitters and Drainers Board, not being a person referred to in subclause (1)—
- (a) shall cease to hold office as such on that day; and
- (b) is eligible (if otherwise qualified) for appointment under the Principal Act,  
25 as amended by this Act, with effect from that day or from any subsequent time.

**Imposition and variation of restrictions on licences, etc.**

2. (1) Any notice given, and anything else done, under section 16 (1B) of the Principal Act before the commencement of Schedule 2 (4) (a) shall be deemed to have been done under section 16 (1B) of the Principal Act, as amended by this Act.
- 30 (2) Any notice given, and anything else done, under section 26 (1B) of the Principal Act before the commencement of Schedule 2 (7) (a) shall be deemed to have been done under section 26 (1B) of the Principal Act, as amended by this Act.

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 3—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(3) Section 16 (1B) of the Principal Act, as amended by this Act, applies to and in respect of a request made or consent given before the commencement of  
5 Schedule 2 (4) (a), as well as to and in respect of one made or given after that commencement.

(4) Section 26 (1B) of the Principal Act, as amended by this Act, applies to and in respect of a request made or consent given before the commencement of  
10 Schedule 2 (7) (a), as well as to and in respect of one made or given after that commencement.

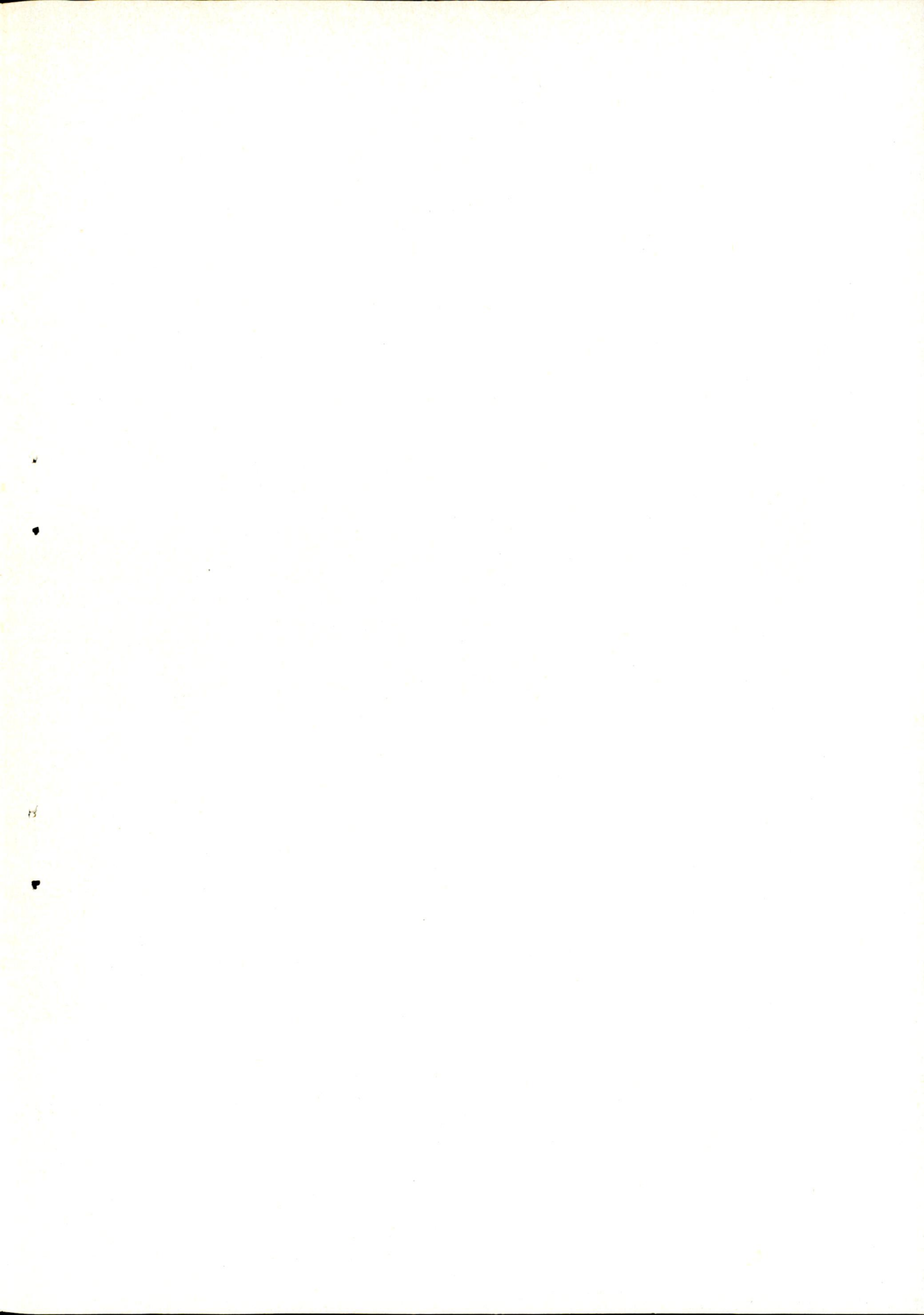
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**PLUMBERS, GASFITTERS AND DRAINERS (AMENDMENT)  
ACT, 1984, No. 30**

**New South Wales**



ANNO TRICESIMO TERTIO

**ELIZABETHÆ II REGINÆ**

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**Act No. 30, 1984.**

An Act to amend the Plumbers, Gasfitters and Drainers Act, 1979, so as to reconstitute the Plumbers, Gasfitters and Drainers Board and to make further provision with respect to licences, certificates of registration and contractors' authorities under that Act, and for other purposes. [Assented to, 12th June, 1984.]

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*Plumbers, Gasfitters and Drainers (Amendment).*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**Short title.**

1. This Act may be cited as the "Plumbers, Gasfitters and Drainers (Amendment) Act, 1984".

**Commencement.**

2. (1) Except as provided by this section, this Act shall commence on the date of assent to this Act.

(2) Section 5, in its application to a provision of Schedule 1 or 2, shall commence on the day on which the provision commences.

(3) Schedule 1 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(4) The several provisions of Schedule 2 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(5) For the purpose only of enabling the Plumbers, Gasfitters and Drainers Board to be constituted in accordance with the Principal Act, as amended by this Act, on or after (but not before) the day appointed and notified under subsection (3), appointments may be made under section 7 of the Principal Act, as amended by this Act, and any other act, matter or thing may be done, before that day as if the whole of this Act commenced on the date of assent to this Act.

**Principal Act.**

3. The Plumbers, Gasfitters and Drainers Act, 1979, is referred to in this Act as the Principal Act.

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*Plumbers, Gasfitters and Drainers (Amendment).*

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**Schedules.**

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION OF THE BOARD.

SCHEDULE 2.—FURTHER AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 3.—SAVINGS AND TRANSITIONAL PROVISIONS.

**Amendment of Act No. 44, 1979.**

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

**Savings and transitional provisions.**

6. Schedule 3 has effect.

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SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION OF THE BOARD.

(1) Section 7 (1)—

Omit the subsection, insert instead:—

(1) The Board shall consist of 8 members, appointed by the Governor, of whom—

(a) one shall be appointed as Chairman of the Board by the instrument of appointment or by a subsequent instrument executed by the Governor;

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION  
OF THE BOARD—*continued.*

- (b) one shall be—
- (i) an officer of the Department of Public Works nominated by the Minister for Public Works;
  - (ii) an officer of The Metropolitan Water Sewerage and Drainage Board nominated by the Minister for Natural Resources; or
  - (iii) an officer of The Hunter District Water Board nominated by the Minister for Natural Resources,
- in rotation, as prescribed;
- (c) one shall be an officer of the Department of Technical and Further Education nominated by the Minister for Education;
- (d) one shall be a person chosen by the Minister from a panel of 3 persons resident in New South Wales and nominated by the Federal Executive of the Plumbers and Gasfitters Employees' Union of Australia;
- (e) one shall be a person chosen by the Minister from a panel of 3 persons nominated by the Executive Committee of The Master Plumbers and Mechanical Contractors Association of N.S.W.;
- (f) one shall be a person chosen by the Minister from a panel of 3 persons nominated by the Board of the Australian Gas Association;
- (g) one shall be a person chosen by the Minister from a panel of 3 persons who shall be members of the Australian Institute of Health Surveyors and who shall be nominated jointly by the Executive Committee of the Local Government Association of New South Wales, the Executive Council of the Shires Association of New South Wales and the State Council of the Australian Institute of Health Surveyors; and
- (h) one shall be a person nominated by the Minister to represent consumers of plumbing, gasfitting and draining services.

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION  
OF THE BOARD—*continued.*

(2) Section 7 (2)—

Omit "(j)", insert instead "(h)".

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SCHEDULE 2.

(Sec. 5.)

FURTHER AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 3—

From the matter relating to Part IV, omit "32", insert instead  
"32A".

(b) Section 3—

From the matter relating to Part V, omit "40", insert instead  
"40A".

(c) Section 3—

After the matter relating to Part V, insert:—

PART VA.—RECTIFICATION ORDERS—*ss.* 40B, 40C.

(2) (a) Section 4 (1), definition of "plumbing work"—

After the definition of "nominated licensee", insert:—

"plumbing work" includes roof plumbing work;

(b) Section 4 (2) —

After "authority," insert "a reference to".

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (c) Section 4 (5)—

After section 4 (4), insert:—

(5) A reference in this Act to plumbing work or gasfitting work, where the word “work” does not immediately follow the word “plumbing” or “gasfitting”, is a reference to plumbing work or gasfitting work as defined in subsection (1).

## (3) Section 9 (2)—

At the end of section 9, insert:—

(2) In the performance of the functions conferred or imposed on it by or under this or any other Act (except in relation to the content of a report or recommendation made by it to the Minister), the Board shall be subject to the control and direction of the Minister.

## (4) (a) Section 16 (1B)—

Omit the subsection, insert instead:—

(1B) The Board shall not, pursuant to subsection (1) or (1A), make a determination to impose a restriction on a licence or certificate of registration or to vary a restriction subject to which a licence or certificate of registration is held unless—

(a) it has—

- (i) by notice in writing served on the applicant for, or holder of, the licence or certificate of registration, informed the applicant or holder that it is considering imposing that restriction or making that variation and of its reasons for so doing; and



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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (ii) given the applicant or holder a reasonable opportunity to show cause why the restriction should not be imposed or the variation made; or
  - (b) the applicant or holder has, in writing, either requested or consented to the imposing of the restriction or the making of the variation.
- (b) Section 16 (2A)–(2C)—
- Omit section 16 (2A), insert instead:—
- (2A) A determination of the Board to impose a restriction on a licence or certificate of registration or to vary a restriction subject to which a licence or certificate of registration is held has no force or effect—
- (a) except as provided by paragraph (b)—until notice of the determination is served on the applicant for, or holder of, the licence or certificate of registration and the time limited for appealing against the Board's determination has expired and, where within that time an appeal against the determination has been made under section 41, until the appeal has been dealt with or withdrawn; or
  - (b) where the applicant for, or holder of, the licence or certificate of registration has, in writing, either requested or consented to the imposing of the restriction or the making of the variation—until notice of the determination is served on that applicant or holder.
- (2B) Where, pursuant to subsection (1A), the Board varies or imposes a restriction on a licence or certificate of registration and no appeal against the Board's determination has been made

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

within the time limited for appealing against it or such an appeal is made but is withdrawn, that holder shall—

- (a) where such an appeal is made but is withdrawn after the expiration of that time, immediately after the appeal is withdrawn; or
- (b) in any other case, immediately after the expiration of that time,

lodge the licence or certificate of registration with the Board for endorsement or amendment of an existing endorsement, as the case may require, unless it was lodged for that purpose under subsection (2c).

Penalty: \$500.

(2c) Where, pursuant to subsection (1A), the Board varies or imposes a restriction on a licence or certificate of registration and the holder of the licence or certificate of registration has, in writing, either requested or consented to the imposing of the restriction or the making of the variation, that holder shall, immediately after notice of the determination is served on that holder, lodge the licence or certificate of registration with the Board for endorsement or amendment of an existing endorsement.

Penalty: \$500.

(5) Section 20B—

After section 20A, insert:—

**Holder of licence or certificate of registration to notify Board of certain matters.**

20B. A holder of a licence or certificate of registration shall, within the prescribed period, notify the Board of any prescribed information or of any change in any prescribed particulars.

Penalty: \$200.

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(6) (a) Section 24 (1) (d) (vii)—

Omit “and”.

(b) Section 24 (1) (d1)—

After section 24 (1) (d), insert:—

(d1) where the application is made by—

(i) a firm—each member of the firm, being an individual, or each director of any corporation that is a member of the firm; or

(ii) a corporation—each director of the corporation, has furnished to the Board such information as may be prescribed; and

(7) (a) Section 26 (1B)—

Omit the subsection, insert instead:—

(1B) The Board shall not, pursuant to subsection (1) or (1A), make a determination to impose a restriction on a contractor's authority or to vary a restriction subject to which a contractor's authority is held unless—

(a) it has—

(i) by notice in writing served on the applicant for, or holder of, the contractor's authority, informed the applicant or holder that it is considering imposing that restriction or making that variation and of its reasons for so doing; and

(ii) given the applicant or holder a reasonable opportunity to show cause why the restriction should not be imposed or the variation made; or

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) the applicant or holder has, in writing, either requested or consented to the imposing of the restriction or the making of the variation.

## (b) Section 26 (2A)–(2C)—

Omit section 26 (2A), insert instead:—

(2A) A determination of the Board to impose a restriction on a contractor's authority or to vary a restriction subject to which a contractor's authority is held has no force or effect—

- (a) except as provided by paragraph (b)—until notice of the determination is served on the applicant for, or holder of, the contractor's authority and the time limited for appealing against the Board's determination has expired and, where within that time an appeal against the determination has been made under section 41, until the appeal has been dealt with or withdrawn; or
- (b) where the applicant for, or holder of, the contractor's authority has, in writing, either requested or consented to the imposing of the restriction or the making of the variation—until notice of the determination is served on that applicant or holder.

(2B) Where, pursuant to subsection (1A), the Board varies or imposes a restriction on a contractor's authority and no appeal against the Board's determination has been made within the time limited for appealing against it or such an appeal is made but is withdrawn, that holder shall—

- (a) where such an appeal is made but is withdrawn after the expiration of that time, immediately after the appeal is withdrawn; or

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) in any other case, immediately after the expiration of that time,

lodge the contractor's authority with the Board for endorsement or amendment of an existing endorsement, as the case may require, unless it was lodged for that purpose under subsection (2c).

Penalty: \$500.

(2c) Where, pursuant to subsection (1A), the Board varies or imposes a restriction on a contractor's authority and the holder of the contractor's authority has, in writing, either requested or consented to the imposing of the restriction or the making of the variation, that holder shall, immediately after notice of the determination is served on that holder, lodge the contractor's authority with the Board for endorsement or amendment of an existing endorsement.

Penalty: \$500.

(8) Section 31 (2), (3)—

Before the penalty at the end of section 31, insert:—

(2) A holder of a contractor's authority shall, within the prescribed period, notify the Board of any prescribed information or of any change in any prescribed particulars.

(3) Where the holder of a contractor's authority is—

(a) a firm—each member of the firm, being an individual, or each director of any corporation that is a member of the firm; or

(b) a corporation—each director of the corporation,

shall, within the prescribed period, notify the Board of any prescribed information or of any change in any prescribed particulars.

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (9) Section 32A—

After section 32, insert:—

**Exemption from requirements as to nominated licensees.**

32A. (1) Where the Board is satisfied that there are special circumstances that warrant its so doing, the Board may, by order, exempt an applicant for or holder of a contractor's authority from any requirements of this Act that there be a nominated licensee or nominated licensees in relation to the contractor's authority.

(2) While an exemption under this section is in force in relation to a contractor's authority, so much of this Act as relates to a nominated licensee or nominated licensees shall be deemed not to apply to or in respect of the applicant for or holder of the contractor's authority.

(3) An exemption under this section may be unconditional or may be subject to such conditions as the Board may, by order, determine.

## (10) (a) Section 33 (1) (g)—

Omit "or" where lastly occurring.

## (b) Section 33 (1) (h)—

Omit "Act.", insert instead "Act; or".

## (c) Section 33 (1) (i)—

After section 33 (1) (h), insert:—

(i) without reasonable cause, fails to comply with an order under section 40C served on that holder.

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (11) (a) Section 34 (b) (ii), (iia)—

Omit section 34 (b) (ii), insert instead:—

(ii) the firm has been guilty of improper conduct;

(iia) any of the members of the firm or any director of a corporation that is a member of the firm is not a fit and proper person to be a member of the firm or a director of the corporation or (without limiting the generality of the foregoing provisions of this subparagraph) has been guilty of improper conduct;

## (b) Section 34 (b) (iv)—

Omit the subparagraph, insert instead:—

(iv) the firm is not capable of carrying on the business of a contractor undertaking the carrying out of work that is authorised work in relation to that firm;

## (c) Section 34 (c) (ii), (iia)—

Omit section 34 (c) (ii), insert instead:—

(ii) the corporation has been guilty of improper conduct;

(iia) any of the directors of the corporation is not a fit and proper person to be a director of the corporation or (without limiting the generality of the foregoing provisions of this subparagraph) has been guilty of improper conduct;

## (d) Section 34 (c) (iv)—

Omit the subparagraph, insert instead:—

(iv) the corporation is not capable of carrying on the business of a contractor undertaking the carrying out of work that is authorised work in relation to that corporation;

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (12) (a) Section 38 (4) (b) (iv)—

Omit “and”.

## (b) Section 38 (4) (b) (v)—

Omit “oath.”, insert instead “oath; and ”.

## (c) Section 38 (4) (b) (vi)—

After section 38 (4) (b) (v), insert:—

- (vi) may amend a notice served under section 37 (1) or (4), and in particular may omit, vary or add particulars of the grounds upon which the defendant is required to show cause and vary any defects in such a notice.

## (d) Section 38 (4A)—

After section 38 (4), insert:—

(4A) Without limiting the power of the Board or member or members before whom an inquiry under this Part is held, where a notice is amended under subsection (4) (b) (vi), the Board, member or members shall grant such an adjournment of the inquiry as in the circumstances is just and equitable.

## (13) Section 40 (9)—

After section 40 (8), insert:—

(9) The Board may, on such terms and conditions (if any) as it thinks fit, terminate a suspension referred to in subsection (1), if the Board is satisfied that the circumstances of the case warrant its doing so.



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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (14) Section 40A—

After section 40, insert:—

**Emergency suspension of licence or authority.**

40A. (1) In this section—

“authorised officer” means an officer of the Board authorised by the Board for the purposes of this section;

“instrument” means a licence or contractor’s authority.

(2) Where, upon application by the Chairman or an authorised officer, a stipendiary magistrate is satisfied from the information contained in the application that—

- (a) the Board has made a determination under section 40 that an instrument be suspended or cancelled;
- (b) the determination has no force and effect by reason of the provisions of section 40 (5); and
- (c) there are reasonable grounds for believing that the continued carrying on of business by the holder of the instrument may constitute a serious threat to the public interest by reason of the incompetence of or misconduct by the holder of the instrument,

the stipendiary magistrate may authorise the Chairman or authorised officer to suspend the instrument and any subsequent renewal thereof.

(3) The Chairman or an authorised officer referred to in subsection (2) effects a suspension so referred to by giving to the holder of the instrument notice in writing that the instrument and any subsequent renewal thereof have been suspended.

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*Plumbers, Gasfitters and Drainers (Amendment).*

---

SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) A suspension under this section terminates—

- (a) when the determination of the Board referred to in subsection (2) takes effect by reason of the provisions of section 40 (5); or
- (b) if the Board gives a direction in writing to that effect to the holder of the instrument,

whichever first occurs.

(5) A suspended instrument under this section has no force or effect during the period of suspension.

(15) Part VA—

After Part V, insert:—

**PART VA.**

**RECTIFICATION ORDERS.**

**Interpretation.**

40B. In this Part—

“affected party”, in relation to any defective work referred to in section 40c, means any person whom the Board considers to be adversely affected by the defective work;

“former holder”, in relation to an instrument, means an individual, firm or corporation who or which, at any time during a period of 5 years before an order is made in respect of that individual, firm or corporation under section 40c, has been a holder of the instrument and has ceased to hold the instrument;

“instrument” means a licence or contractor’s authority.

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.***Rectification orders.**

40c. (1) Where the Board, on such information as to it seems sufficient, is of the opinion that any work carried out by the holder or former holder of an instrument, being work—

- (a) that is or was authorised work in relation to that holder or former holder; and
- (b) to which a complaint under section 34 or 35 relates or that is the subject of investigations referred to in section 37 (4),

is defective, the Board may, before causing a notice under section 37 (1) or (4) to be served on that holder or former holder, make an order, in writing, requiring that holder or former holder to rectify, or cause to be rectified, the defective work to the satisfaction of the Board within such period as may be specified in the order.

(2) An order under subsection (1) may be made subject to compliance by any affected party with such directions specified in the order as to the Board seem proper to enable the order to be complied with.

(3) The making of an order by the Board under subsection (1) in respect of the holder or former holder of an instrument does not limit or affect in any way the power of the Board to deal with that holder or former holder under Part V in respect of the work the subject of the order, but the Board shall not cause a notice under section 37 (1) or (4) to be served on that holder or former holder in respect of that work unless the time for compliance with the order under subsection (1) has expired, and if the Board does cause a notice under section 37 (1) or (4) in respect of that work to be served on that holder or former holder it shall, in dealing with that holder or former holder under Part V, take into consideration whether that holder or former holder—

- (a) has rectified, or caused to be rectified, the defective work to which the order relates in accordance with the terms of the order; or

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) has been prevented from complying with the order by reason of the failure of any affected party to comply with any directions referred to in subsection (2) and specified in the order.

(4) A reference in this section to defective work is a reference to work—

- (a) that has been carried out otherwise than in a good and workmanlike manner;
- (b) in the course of the carrying out of which any faulty or unsuitable materials have been used;
- (c) that has been carried out in contravention of any provision of any Act, regulation, by-law, ordinance or rule applicable to the carrying out of the work; or
- (d) that, without reasonable cause, has been carried out otherwise than in accordance with any contract in accordance with which the holder or former holder of the instrument contracted to carry out the work.
- (16) Section 47 (2)—  
Omit “, with the approval of the Treasurer,”.

- (17) (a) Section 51 (1)—

After “shall” where firstly occurring, insert “, in such form or medium as the Board thinks fit,”.

- (b) Section 51 (1)—

After “which”, insert “, or information from which,”.

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*Plumbers, Gasfitters and Drainers (Amendment).*

---

SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (18) (a) Section 54 (1A), (1B)—

After section 54 (1), insert:—

(1A) The Board may, in such circumstances as it thinks appropriate, refund to a person who has made a complaint under Part V, or to any other person who appears entitled thereto, the whole or any part of the fee which accompanied the complaint.

(1B) Where an application for a certificate of competency is refused or withdrawn, the Board may refund to the applicant, or to any other person who appears entitled thereto, the whole or any part of the fee which has been paid by the applicant.

## (b) Section 54 (2)—

After “(1)”, insert “, (1A) or (1B)”.

## (19) (a) Section 62 (c1)—

After section 62 (c), insert:—

(c1) that the Board was or was not, during a period so specified, notified by the holder of a licence or a certificate of registration so specified of any information or change, referred to in section 20B, that is so specified;

## (b) Section 62 (d)—

After “any”, insert “information or”.

## (c) Section 62 (d1)—

After section 62 (d), insert:—

(d1) that the Board was or was not, during a period so specified, informed by the holder of a contractor's authority so specified, that the contractor's authority has ceased to be in force by virtue of section 32 (1);

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (20) (a) Section 68A (c)—

Omit “or”.

## (b) Section 68A (f)—

Omit “1961.”, insert instead “1961; or”.

## (c) Section 68A (g)—

After section 68A (f), insert:—

(g) the Dangerous Goods Act, 1975.

## (21) (a) Section 72 (1A)—

At the end of the subsection, insert “Penalty: \$2,000.”.

## (b) Section 72 (3), (4)—

Omit section 72 (3), insert instead:—

(3) The provisions of subsections (1), (1A) and (2) do not, to the extent specified in the regulations, apply in such classes of cases or of circumstances as may be prescribed.

(4) The provisions of subsections (1), (1A) and (2) do not, to the extent determined by the Board, apply in such cases or circumstances as the Board, having regard to such special circumstances as it thinks appropriate, may by order determine.

## (22) Section 72A—

Omit “his”, insert instead “the person’s”.

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*Plumbers, Gasfitters and Drainers (Amendment).*

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## SCHEDULE 3.

(Sec. 6.)

## SAVINGS AND TRANSITIONAL PROVISIONS.

**Members of the Board.**

1. (1) A person who, immediately before the day appointed and notified under section 2 (3), held office as a member of the Plumbers, Gasfitters and Drainers Board as referred to in section 7 (1) (a), (c), (h), (i) or (j) of the Principal Act—

- (a) shall be deemed to have been duly appointed on that day as a member of that Board as referred to in section 7 (1) (a), (c), (e), (f) or (g) of the Principal Act, as amended by this Act, respectively;
- (b) shall be deemed to have been so appointed—
  - (i) upon the same terms and conditions as those applicable to the person immediately before that day; and
  - (ii) for the residue of the term of office for which the person was appointed; and
- (c) is eligible (if otherwise qualified) for appointment under the Principal Act, as amended by this Act, with effect from the expiration of that term or from any subsequent time.

(2) A person who, immediately before the day appointed and notified under section 2 (3), held office as a member of the Plumbers, Gasfitters and Drainers Board, not being a person referred to in subclause (1)—

- (a) shall cease to hold office as such on that day; and
- (b) is eligible (if otherwise qualified) for appointment under the Principal Act, as amended by this Act, with effect from that day or from any subsequent time.

**Imposition and variation of restrictions on licences, etc.**

2. (1) Any notice given, and anything else done, under section 16 (1B) of the Principal Act before the commencement of Schedule 2 (4) (a) shall be deemed to have been done under section 16 (1B) of the Principal Act, as amended by this Act.

(2) Any notice given, and anything else done, under section 26 (1B) of the Principal Act before the commencement of Schedule 2 (7) (a) shall be deemed to have been done under section 26 (1B) of the Principal Act, as amended by this Act.

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*Plumbers, Gasfitters and Drainers (Amendment).*

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SCHEDULE 3—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(3) Section 16 (1B) of the Principal Act, as amended by this Act, applies to and in respect of a request made or consent given before the commencement of Schedule 2 (4) (a), as well as to and in respect of one made or given after that commencement.

(4) Section 26 (1B) of the Principal Act, as amended by this Act, applies to and in respect of a request made or consent given before the commencement of Schedule 2 (7) (a), as well as to and in respect of one made or given after that commencement.

*In the name and on behalf of Her Majesty I assent to this Act.*

L. W. STREET,  
*By Deputation from*  
*His Excellency the Governor.*

*Government House,*  
*Sydney, 12th June, 1984.*





