



AUSTRALIAN CAPITAL TERRITORY

Water and Sewerage Act 2000

No 68 of 2000

CONTENTS

Section

PART 1—PRELIMINARY

- 1 Name of Act
- 2 Commencement
- 3 Dictionary
- 4 Interpretation

PART 2—PLAN APPROVALS

Division 2.1—Certifiers

- 5 Appointment of certifiers
- 6 Prohibition against contracting out

Division 2.2—Issue of plan approvals

- 7 Application
- 8 Issue of plan approvals

Water and Sewerage No 68, 2000

CONTENTS—continued

Section	
9	Amendment of approved plans
10	Notification of cessation of appointment of certifier
	PART 3—OFFENCES
11	Sprinkler fitting
12	Sanitary plumbers to be licensed
13	House drainage work
14	Water supply plumbers to be licensed
15	Notice of interference with certain pipes communicating with water network
16	Interference with drains etc connected with sewerage system
17	Use of unlicensed plumbers
	PART 4—ENFORCEMENT
	<i>Division 4.1—General</i>
18	Definitions for pt 4
19	Things connected with offences
20	Chief executive may require information and documents
21	Contravention of requirement by chief executive
22	Chief executive may require rectification of defective work
	<i>Division 4.2—Inspectors</i>
23	Appointment of inspectors
24	Identity cards
25	Chief executive's powers
26	Delegation—chief executive
27	Power to enter premises
28	Production of identity card
29	Consent to entry
30	Warrants
31	Warrants—application made other than in person
	<i>Division 4.3—Powers of inspectors on entry to premises</i>
32	Powers on entry to premises
33	Power to require name and address
34	Power to seize evidence
35	Receipt for things seized
36	Access to things seized
37	Return of things seized
38	Power to inspect plumbing or sanitary drainage work

Water and Sewerage No 68, 2000

CONTENTS—continued

Section

Division 4.4—Miscellaneous

- 39 Selfincrimination etc
- 40 Legal professional privilege
- 41 Providing false or misleading information
- 42 Providing false or misleading documents
- 43 Obstruction

PART 5—MISCELLANEOUS

- 44 Review of decisions
- 45 Determination of fees
- 46 Fees payable to Territory in accordance with determinations etc
- 47 Regulations may make provision about fees
- 48 Approved forms
- 49 Regulation-making power

PART 6—TRANSITIONAL

- 50 Definitions for pt 6
- 51 Repeal
- 52 Certifiers
- 53 Plan approvals
- 54 Regulations—transitional matters
- 55 Expiry of pt 6

DICTIONARY



AUSTRALIAN CAPITAL TERRITORY

Water and Sewerage Act 2000

No 68 of 2000

An Act to make provision in relation to the supply of plumbing or sanitary drainage services

[Notified in ACT Gazette S68: 20 December 2000]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART 1—PRELIMINARY

1 Name of Act

This Act is the *Water and Sewerage Act 2000*.

2 Commencement

This Act commences on a day fixed by the Minister by notice in the Gazette.

Note 1 The provisions of an Act providing for its name and commencement automatically commence on the date of notification of the Act (see *Interpretation Act 1967*, s 10B).

Note 2 A single day or time may be fixed, or different days or times may be fixed for different provisions (see *Interpretation Act 1967*, s 10C (1)).

Note 3 If a provision has not commenced within 6 months beginning on the date of notification of the Act, it automatically commences on the first day after that period (see *Interpretation Act 1967*, s 10E (2)).

3 Dictionary

The dictionary at the end of this Act is part of the Act.

Note 1 The dictionary defines certain words and expressions used in this Act and the regulations, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act, the regulations or in other legislation.

For example, the signpost definition '*sewerage network*—see the *Utilities Act 2000*, section 14' means the expression 'sewerage network' is defined in the dictionary to the Act and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see *Interpretation Act 1967*, s 11F and s 11G as applied by the *Subordinate Laws Act 1989*, s 9).

4 Interpretation

An expression used in this Act that is used in Australian Standard 3500 has the same meaning as in that standard.

PART 2—PLAN APPROVALS

Division 2.1—Certifiers

5 Appointment of certifiers

- (1) The owner of premises on which it is proposed to do plumbing or sanitary drainage work must, in writing, appoint a certifier in relation to the work.
- (2) Subsection (1) does not apply if—
 - (a) the structure in relation to which the work is to be done is a single residential building; or
 - (b) the work is on a pipe connected to a property service less than 50mm in diameter.
- (3) An appointment ends if—
 - (a) the owner of the relevant premises revokes the appointment by written notice given to the certifier; or
 - (b) the certifier relinquishes the appointment by written notice given to the owner of the relevant premises.
- (4) If a certifier, after being appointed, ceases to be entitled to be appointed as a certifier in relation to the relevant work, his or her appointment under subsection (1) ends, by virtue of this subsection, when the certifier ceases to be so eligible.

6 Prohibition against contracting out

A provision in a contract or agreement that purports to limit or modify the operation of this Act in relation to a certifier has no effect.

Division 2.2—Issue of plan approvals

7 Application

The owner of premises may apply to a certifier for approval of a plan in relation to plumbing or sanitary drainage work.

8 Issue of plan approvals

(1) A certifier must not approve a plan in relation to plumbing or sanitary drainage work unless the following approvals have been obtained:

- (a) approval from the responsible utility—
 - (i) if non-domestic waste is to be disposed of—for the disposal of the waste to the sewerage network and the manner of disposal; or
 - (ii) if an increase in water demand or sewer load is expected—for the increase; or
 - (iii) if a point of connection to the sewerage network or the water network is to be changed or removed—for the change or removal; or
 - (iv) if a new point of connection to the sewerage network or the water network is required—for the point; or
 - (v) if a new fire service is proposed—for the proposal; or
 - (vi) if surface water or stormwater is to be discharged to the sewerage network—for the discharge and manner of discharge; or
 - (vii) if a water pumping appliance or sewage pumping appliance is to be connected to the water network or the sewerage network—for the connection and manner of connection;
- (b) if radioactive materials are to be disposed of into the sewerage network—approval from the responsible utility and the chief health officer for the disposal and manner of disposal.

(2) A certifier must not issue a plan approval unless—

- (a) the application is in accordance with section 7 (Application); and
- (b) the applicant has obtained the approvals mentioned in subsection (1); and
- (c) the requirements of this Act have otherwise been complied with; and
- (d) the proposed plumbing or sanitary drainage work complies with Australian Standard 3500.

(3) A certifier who issues a plan approval must give a copy of the approval and the relevant plans—

- (a) as soon as practicable, to the applicant; and
- (b) within 7 days, to the chief executive.

9 Amendment of approved plans

- (1) The owner of premises to which a plan approved by a certifier relates may apply to a certifier for approval of an amendment of the plan.
- (2) The certifier—
- (a) must refuse the application if satisfied that the proposed amendment requires reconsideration of the plan approval; or
 - (b) may approve the amendment and amend the plan accordingly if—
 - (i) satisfied that reconsideration of the plan approval is not required; and
 - (ii) the requirements of subsection 8 (2), other than paragraph (a), have been complied with in relation to the amendment.
- (3) A certifier who approves an amendment must keep all documents relating to the amendment for 12 months.
- (4) In this section, a reference to a plan approval includes a reference to an approval that has been amended in accordance with this section.

10 Notification of cessation of appointment of certifier

A certifier who has received an application for a plan approval under section 7 (Application) must, if his or her appointment in relation to the work ends by virtue of subsection 5 (3) or (4) (Appointment of certifiers), within 7 days after the appointment ends, notify the chief executive, in writing.

Maximum penalty: 1 penalty unit.

PART 3—OFFENCES

11 Sprinkler fitting

(1) A person must not install or fit a sprinkler system or any part of a fire sprinkler service unless the person holds a water supply plumber's licence, journeyman plumber's licence or sprinkler fitter's licence.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) A person must not install or fit a sprinkler system or any part of a fire sprinkler service unless the person has given not less than 2 business days written notice to the chief executive of the intention to start the work.

Maximum penalty: 20 penalty units.

12 Sanitary plumbers to be licensed

(1) A person must not do any sanitary plumbing work unless the person holds a sanitary plumber's licence.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) Subsection (1) does not apply if—

- (a) the person holds a water supply plumber's licence and does water supply plumbing necessary for the sanitary plumbing work; and
- (b) the person holds a journeyman plumber's licence and does sanitary plumbing work under the general supervision of the holder of a sanitary plumber's licence.

13 House drainage work

A person must not lay or repair any drain unless—

- (a) the person holds an advanced sanitary drainer's licence; or
- (b) the person holds an operative drainer's licence and does the work under the general supervision of the holder of an advanced sanitary drainer's licence.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

14 Water supply plumbers to be licensed

A person must not connect any service pipe to a water network, or (other than by fitting a washer to any stopcock, tap or valve) alter, repair, or in any way interfere with, any service pipe, cock, or fitting connected with it or lay any pipe to indirectly communicate with a water network unless the person holds a water supply plumber's licence.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

15 Notice of interference with certain pipes communicating with water network

- (1) A person must not—
- (a) alter, repair or replace a pipe or fitting communicating with the water network, without first—
 - (i) giving to the chief executive 2 business days written notice, of the intention to commence the work; and
 - (ii) if approval is required for a plan under the regulations—obtaining that approval; or
 - (b) contravene any direction given by the chief executive about how the alteration, repair, replacement or communication is to be made; or
 - (c) lay any pipe communicating with a water network otherwise than as authorised under MP52.

Maximum penalty: 20 penalty units.

- (2) A notice under subsection (1) must be signed by—
- (a) the licensed plumber actually engaged in doing the work referred to in the notice; or
 - (b) the licensed plumber employing another plumber to do the work under his or her supervision.
- (3) A licensed plumber must not—
- (a) sign a notice for work that is not actually done by the plumber or by a plumber under his or her supervision; or
 - (b) do work under a notice not signed by the licensed plumber.

Maximum penalty: 50 penalty units.

(4) This section applies to a service communication with a water network made through the intervening medium of a storage tank, as well as to communication by direct service.

16 Interference with drains etc connected with sewerage system

- (1) A person must not alter, remove or interfere with the sanitary drainage or sanitary plumbing system unless the person—
- (a) has given not less than 2 business days written notice to the chief executive of his or her intention to commence the work; or
 - (b) if the work is minor sanitary plumbing work—gives to the chief executive a minor works notice within 7 days after completing the work; or
 - (c) if the work is minor drainage work—gives to the chief executive a minor works notice within 7 days after completing the work.

Maximum penalty: 20 penalty units.

- (2) A notice under subsection (1) must, except in the case of a minor works notice—
- (a) for work relating to a single residential building—be accompanied by a site plan; or
 - (b) in any other case—be accompanied by a plan approval under section 8 (Issue of plan approvals).
- (3) A site plan must—
- (a) be drawn in accordance with AS1100 on a scale of not less than 1:200; and
 - (b) be in accordance with the form approved by the chief executive; and
 - (c) contain the information required by the form.
- (4) Subsection (1) does not apply to—
- (a) a person who holds a journeyman plumber's licence who performs minor sanitary plumbing work if the work is performed under the general supervision of a person who—
 - (i) holds a sanitary plumber's licence and who has given notice under paragraph (1) (a); or
 - (ii) submits a minor works notice within 7 days after completing the work; and
 - (b) a person who holds an operative drainer's licence who performs minor drainage work if the work is performed under the general supervision of a person who—
 - (i) holds an advanced sanitary drainer's licence and who has given notice under paragraph (1) (a); or

- (ii) submits a minor works notice within 7 days after completing the work.
- (5) For this section, work is minor sanitary plumbing work if—
- (a) the work is sanitary plumbing work that is limited to maintenance of existing work; and
 - (b) the holder of a sanitary plumber's licence has entered into a contract with a person to perform the work; and
 - (c) the consideration to be given for performance of the work, excluding the cost of sanitary fixtures supplied for the work, is not greater than \$1,000 in value.
- (6) For this section, work is minor drainage work if—
- (a) the work is the replacement or repair of any drain; and
 - (b) the holder of an advanced sanitary drainer's licence has entered into a contract with a person to perform the work; and
 - (c) the consideration to be given for performance of the work, excluding the cost of sanitary fixtures supplied for the work, is not greater than \$1,000 in value.
- (7) In this section—
- minor works notice*** means a notice that—
- (a) is in a form approved by the chief executive; and
 - (b) certifies that the work was completed in accordance with the regulations; and
 - (c) contains the information required by the form.

17 Use of unlicensed plumbers

A licensed plumber or drainer must not, without reasonable excuse, engage or employ a person to do any plumbing or sanitary drainage work unless the person is the holder of a licence authorising the person to do that class of work.

Maximum penalty: 50 penalty units.

PART 4—ENFORCEMENT

Division 4.1—General

18 Definitions for pt 4

In this Part, the following definitions apply:

occupier, of premises, includes—

- (a) a person reasonably believed to be an occupier of the premises; and
- (b) a person apparently in charge of the premises.

reasonably believes means has reasonable grounds for believing.

19 Things connected with offences

(1) For this Part, a thing is connected with a particular offence if—

- (a) the offence has been committed with respect to it; or
- (b) it will afford evidence of the commission of the offence; or
- (c) it was used, is being used, or is intended to be used, for the purpose of committing the offence.

(2) A reference in this Part to an *offence* includes an offence that is reasonably believed to have been, is being, or will be committed.

20 Chief executive may require information and documents

(1) If the chief executive is satisfied that a person is capable of providing information or producing a document that the chief executive reasonably requires for this Act, the chief executive may, by written notice given to the person, require the person—

- (a) to give the information to the chief executive in writing signed by the person or, in the case of a corporation, by an officer of the corporation; or
- (b) to produce the document to the chief executive.

(2) The notice must state—

- (a) the place at which the information or document is to be given or produced to the chief executive; and
- (b) the time at which, or the period within which, the information or document is to be given or produced.

(3) If a document is produced in accordance with a requirement under subsection (1), the chief executive—

- (a) may—
 - (i) take possession of, and make a copy of, or take extracts from, the document; and
 - (ii) retain possession of the document for such period as is necessary for this Act; and
- (b) must, during that period, allow a person who would be entitled to inspect the document, if it was not in the possession of the chief executive, to inspect the document at any reasonable time.

21 Contravention of requirement by chief executive

A person must not, without reasonable excuse, contravene a requirement under section 20.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

22 Chief executive may require rectification of defective work

(1) This section applies if work has not been done in accordance with an inspector's direction under subsection 32 (4) (Powers on entry to premises) and the chief executive reasonably believes that—

- (a) the work is necessary to ensure that the plumbing, or the sanitary drainage system, complies with this Act; and
- (b) it is necessary to give a direction under this section to protect—
 - (i) the health or safety of people; or
 - (ii) public or private property; or
 - (iii) the environment.

(2) The chief executive may, in writing, direct the owner to do the work to which the inspector's direction relates in the way, and within the time, mentioned in the chief executive's direction.

(3) If the owner contravenes a direction under subsection (2), the chief executive may arrange for the work to be done.

(4) The reasonable expenses incurred by the chief executive under subsection (3) are a debt due by the owner to the Territory.

Division 4.2—Inspectors

23 Appointment of inspectors

- (1) The chief executive may, in writing, appoint a person to be an *inspector* for this Act or a provision of this Act.
- (2) An inspector must perform his or her functions under this Act in accordance with the conditions of appointment and any direction given to the inspector by the chief executive.
- (3) A person must not be appointed under subsection (1) unless—
 - (a) the person is an Australian citizen or a permanent resident of Australia; and
 - (b) the chief executive has certified in writing that, after appropriate inquiry, the chief executive is satisfied that the person is a suitable person to be appointed, having regard in particular to—
 - (i) whether the person has any criminal convictions; and
 - (ii) the person's employment record; and
 - (c) the chief executive has certified in writing that the chief executive is satisfied that the person—
 - (i) has satisfactorily completed adequate training; and
 - (ii) is competent;to exercise the powers of an inspector proposed to be given to the person.

24 Identity cards

- (1) The chief executive must give each inspector an identity card—
 - (a) that specifies the inspector's name and appointment as an inspector; and
 - (b) on which there is a recent photograph of the inspector.
- (2) A person must, within 7 days after ceasing to be an inspector, return the identity card to the chief executive.

Maximum penalty (subsection (2)): 1 penalty unit.

25 Chief executive's powers

The chief executive may, subject to this Part, exercise all the powers of an inspector.

26 Delegation—chief executive

The chief executive may delegate all or any of his or her powers under this Part (other than section 23 (Appointment of inspectors)) to an inspector or a public servant.

27 Power to enter premises

- (1) An inspector may, for this Act—
- (a) enter any premises at any time with the consent of the occupier; or
 - (b) at any reasonable time, enter premises connected to a water network or sewerage network (other than a part of the premises used for residential purposes); or
 - (c) enter premises in accordance with a warrant under this Division.
- (2) An inspector may, without the occupier's consent or a warrant, enter the land around premises to ask the occupier for consent to enter the premises.

28 Production of identity card

An inspector may not remain on premises entered under this Part if, on request by the occupier, the inspector does not produce his or her identity card.

29 Consent to entry

- (1) When seeking the consent of an occupier for entering premises under this Part, an inspector must—
- (a) produce his or her identity card; and
 - (b) tell the occupier—
 - (i) the purpose of the entry; and
 - (ii) that anything found and seized by the inspector may be used in evidence in court; and
 - (iii) that consent may be refused.
- (2) If the occupier consents, the inspector must ask the occupier to sign a written acknowledgment—
- (a) that the occupier was told—
 - (i) the purpose of the entry; and
 - (ii) that anything found and seized under this Part may be used in evidence in court; and
 - (iii) that consent may be refused; and

- (b) that the occupier consented to the entry; and
 - (c) the time, and day, when consent was given.
- (3) If the occupier signs an acknowledgment of consent, the inspector must immediately give a copy to the occupier.
- (4) Unless the contrary is proved, a court must presume that an occupier did not consent to an entry to premises by an inspector under this Part if—
- (a) the question whether the occupier consented to the entry arises in proceedings in the court; and
 - (b) an acknowledgment under this section is not produced in evidence for the entry; and
 - (c) it is not proved that the occupier consented to the entry.

30 Warrants

- (1) An inspector may apply to a magistrate for a warrant to enter premises.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.
- (4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—
- (a) there is a particular thing or activity (the *evidence*) connected with an offence against this Act; and
 - (b) the evidence is, or may be within the next 14 days, at the premises.
- (5) The warrant must state—
- (a) that the inspector may, with necessary help and force, enter the premises and exercise the inspector's powers under this Part; and
 - (b) the offence for which the warrant is sought; and
 - (c) the evidence that may be seized under the warrant; and
 - (d) the hours when the premises may be entered; and
 - (e) the date, within 14 days after the warrant's issue, the warrant ends.

31 Warrants—application made other than in person

- (1) An inspector may apply for a warrant by phone, fax, radio or other form of communication if the inspector considers it necessary because of—
 - (a) urgent circumstances; or
 - (b) other special circumstances.
- (2) Before applying for the warrant, the inspector must prepare an application stating the grounds on which the warrant is sought.
- (3) The inspector may apply for the warrant before the application is sworn.
- (4) After issuing the warrant, the magistrate must immediately fax a copy to the inspector if it is reasonably practicable to do so.
- (5) If it is not reasonably practicable to fax a copy to the inspector—
 - (a) the magistrate must—
 - (i) tell the inspector what the terms of the warrant are; and
 - (ii) tell the inspector the date and time the warrant was issued; and
 - (b) the inspector must complete a form of warrant (*warrant form*) and write on it—
 - (i) the magistrate's name; and
 - (ii) the date and time the magistrate issued the warrant; and
 - (iii) the warrant's terms.
- (6) The facsimile warrant, or the warrant form properly completed by the inspector, authorises the entry and the exercise of the inspector's powers under this Part.
- (7) The inspector must, at the first reasonable opportunity, send the magistrate—
 - (a) the sworn application; and
 - (b) if the inspector completed a warrant form—the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the warrant.

(9) Unless the contrary is proven, a court must presume that a power exercised by the inspector was not authorised by a warrant under this section if—

- (a) the question arises in a proceeding before the court whether the exercise of power was authorised by a warrant; and
- (b) the warrant is not produced in evidence.

Division 4.3—Powers of inspectors on entry to premises

32 Powers on entry to premises

(1) An inspector who enters premises under this Part may, for this Act—

- (a) inspect or measure the premises or anything on the premises, in particular any plumbing, or sanitary drainage system; or
- (b) take photographs or films or audio, video or other recordings of the premises or anything on the premises; or
- (c) take copies or extracts of documents kept on the premises; or
- (d) inspect records on the premises in relation to plumbing or sanitary drainage work; or
- (e) require the occupier to give reasonable help to exercise a power under this Act; or
- (f) require the occupier or a person on the premises to—
 - (i) answer questions or give information; or
 - (ii) make available any record or document kept on the premises.

(2) A person must not, without reasonable excuse, contravene a requirement under paragraph (1) (e) or (f).

Maximum penalty (subsection (2)): 50 penalty units.

(3) For subsection (1), the inspector may open up premises or excavate land, doing as little damage as is reasonably practicable in the circumstances.

(4) An inspector who exercises a power under subsection (1) and finds any part of the plumbing, or the sanitary drainage system, that—

- (a) does not comply with, or has not tested in accordance with, this Act; or

- (b) is in bad order and condition, or requires cleaning or alteration or should be filled up;

may give a written direction to the owner of the premises, or the person who did the work, to take stated action to ensure that the system, or the doing of related work, complies with the Act.

(5) If the direction requires testing, the direction may also require the production to the inspector of a written report about the test by the person who did the test within a stated time after doing the test.

(6) A person must not, without reasonable excuse, contravene a direction under subsection (4).

Maximum penalty: 50 penalty units.

(7) If any part of the plumbing, or the sanitary drainage system, is not found by the inspector to be of the nature mentioned in paragraph (4) (a) or (b), the inspector must arrange for the service or system to be promptly put back as near as is reasonably practicable to its former condition or state.

(8) The costs or expenses incurred by the inspector under subsection (7), including any testing or examination, must be met by the Territory.

33 Power to require name and address

(1) An inspector may require a person to state the person's name and address if the inspector—

- (a) finds a person committing an offence against this Act; or
- (b) reasonably believes that a person has committed an offence against this Act.

(2) In exercising a power under subsection (1), an inspector must—

- (a) inform the person of the reasons for the requirement; and
- (b) as soon as practicable after making the requirement, record those reasons.

(3) A person is not required to comply with a requirement under subsection (1) if, on request by the person, the inspector does not produce his or her identity card.

(4) A person must not, without reasonable excuse, contravene a requirement under subsection (1).

Maximum penalty (subsection (4)): 5 penalty units.

34 Power to seize evidence

- (1) An inspector who enters premises with a warrant under this Part may seize the evidence for which the warrant was issued.
- (2) An inspector who enters premises under this Part without a warrant may seize a thing on the premises if—
 - (a) the inspector is satisfied the thing is connected with an offence against this Act; and
 - (b) seizure of the thing is consistent with the purpose of the entry as told to the occupier in seeking the occupier's consent.
- (3) An inspector may also seize another thing on the premises entered under this Part if the inspector is satisfied—
 - (a) the thing is connected with an offence against this Act; and
 - (b) the seizure is necessary to prevent the thing being—
 - (i) concealed, lost or destroyed; or
 - (ii) used to commit, continue or repeat the offence.
- (4) Having seized a thing, the inspector may—
 - (a) remove the thing from the premises where it was seized (the *place of seizure*) to another place; or
 - (b) leave the thing at the place of seizure but restrict access to it.
- (5) A person must not, without the chief executive's approval, interfere with a thing to which access has been restricted under subsection (4).

Maximum penalty (subsection (5)): 50 penalty units, imprisonment for 6 months or both.

35 Receipt for things seized

- (1) As soon as practicable after a thing is seized by an inspector under this Part, the inspector must give a receipt for it to the person from whom it was seized.
- (2) If, for any reason, it is not practicable to comply with subsection (1), the inspector must leave the receipt, secured conspicuously at the place of seizure.

36 Access to things seized

A person who would, but for the seizure, be entitled to a thing seized under this Part may—

- (a) inspect it; and

- (b) if it is a document—take extracts from it or make copies of it.

37 Return of things seized

(1) A thing seized under this Part must be returned to its owner, or reasonable compensation must be paid to the owner by the Territory for the loss of the thing, if—

- (a) a prosecution for an offence relating to the thing is not instituted within 90 days of the seizure; or
- (b) the court does not find the offence proved in a prosecution for an offence relating to the thing.

(2) A thing seized under this Part is forfeited to the Territory if a court—

- (a) finds an offence relating to the thing to be proved; and
- (b) orders the forfeiture.

(3) If paragraph (2) (a) applies, but a court does not order forfeiture of the thing seized, the chief executive must return the thing to its owner or the Territory must pay reasonable compensation to the owner for the loss of the thing.

38 Power to inspect plumbing or sanitary drainage work

(1) An inspector may enter and remain on premises to conduct a test or inspection under this Act in relation to plumbing or sanitary drainage work.

(2) An inspector may enter and remain on the premises under subsection (1)—

- (a) at any reasonable time; and
- (b) with the people, equipment or material that the inspector reasonably needs to conduct the test or inspection.

(3) However, the inspector may not, under this section—

- (a) enter or remain on premises if, on request by the occupier, the inspector does not produce his or her identity card; or
- (b) without the consent of the occupier, enter or remain on any part of the premises used for residential purposes.

(4) The power to enter premises under this section is additional to the powers under section 27 (Power to enter premises).

Division 4.4—Miscellaneous

39 Selfincrimination etc

(1) A person is not excused from providing information, producing a document or answering a question when required to do so under this Part on the ground that the information, document or answer might tend to incriminate the person.

(2) However—

- (a) the provision of the information, document or answer; or
- (b) any information, document or thing obtained as a direct or indirect consequence of providing the information, document or answer;

is not admissible in evidence against the person in criminal proceedings.

(3) Subsection (2) does not apply to proceedings for—

- (a) an offence under this Part; or
- (b) any other offence in relation to the falsity of the information or document; or
- (c) an offence under or by virtue of Part 8 of the *Crimes Act 1900* that relates to an alleged offence mentioned in paragraph (a) or (b).

40 Legal professional privilege

In response to a requirement under this Part, a person does not have to—

- (a) make available information or a document; or
- (b) answer a question;

if the person is entitled to claim, and does claim, legal professional privilege in relation to the requirement.

41 Providing false or misleading information

A person must not, in purported compliance with a requirement under this Part, knowingly give information that is false or misleading in a material particular.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

42 Providing false or misleading documents

A person must not, in purported compliance with a requirement under this Part, produce a document (or a copy of a document) that the person knows is false or misleading in a material particular.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

43 Obstruction

A person must not, without reasonable excuse, hinder or obstruct an inspector in the exercise of a function under this Part.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

PART 5—MISCELLANEOUS

44 Review of decisions

(1) Application may be made to the administrative appeals tribunal for review of the following decisions:

- (a) a decision by the chief executive to give a direction under section 22 (Chief executive may require rectification of defective work);
- (b) a decision by an inspector to give a direction under subsection 32 (4) (Powers on entry to premises).

(2) A person who makes a decision mentioned in subsection (1) must give written notice of the decision to each person affected by the decision.

(3) A notice under subsection (2) must be in accordance with the requirements of the code of practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

45 Determination of fees

(1) The Minister may, in writing, determine fees payable under this Act.

(2) A determination of a fee must state—

- (a) the amount of the fee; or
- (b) how the fee is to be worked out.

(3) A determination—

- (a) must provide who is liable to pay a fee; and
- (b) may make provision about when the fee is payable (including the deferment of payment) and how it is to be paid (for example, as a lump sum or by instalments); and
- (c) may make provision about the remission or refund of fees by the registrar, in whole or in part, in particular circumstances; and
- (d) may make provision about anything else relating to the fee.

(4) A determination is a disallowable instrument.

46 Fees payable to Territory in accordance with determinations etc

(1) A fee determined under section 45 is payable to the Territory, in relation to the relevant matter mentioned in the determination and in accordance with the determination, by the person liable to pay the fee under the determination.

(2) A fee determined under section 45 is payable in advance unless the determination provides otherwise.

(3) If a fee determined under section 45 is payable in advance and the amount has not been paid, the chief executive or anyone else is not obliged to exercise a function, or provide a service or facility, in relation to which the amount is payable.

47 Regulations may make provision about fees

(1) The regulations may make provision with respect to the payment by cheque or credit card of any fee payable under this Act, including, for example, the consequences of a cheque not being met on presentation or a credit card transaction not being honoured.

(2) Without limiting subsection (1), the regulations may make provision for or with respect to—

- (a) the suspension, cancellation or revocation of any registration, condition, document, or anything else done, given or issued under this Act if any fee payable for or in relation to it—
 - (i) is not paid when it is required to be paid; or
 - (ii) is paid by cheque and the cheque is not met on presentation; or
 - (iii) is paid by credit card and the credit card transaction is not honoured; or
- (b) the restoration (whether prospectively or during any past period of suspension, cancellation or revocation) of any registration, permit, document, or anything else so suspended, cancelled or revoked.

48 Approved forms

(1) The chief executive may approve forms for this Act.

(2) If the chief executive approves a form for a particular purpose, the approved form must be used for that purpose.

49 Regulation-making power

(1) The Executive may make regulations for this Act.

(2) The regulations may also make provision in relation to—

- (a) the certification of plumbing or sanitary drainage work; and
- (b) the doing of plumbing or sanitary drainage work; and
- (c) the inspection of the plumbing, or the sanitary drainage system, or plumbing or sanitary drainage work; and

- (d) notification requirements in relation to plumbing or sanitary drainage work; and
 - (e) standards for plumbing or sanitary drainage work and the approval of materials to be used in that work; and
 - (f) the connection of equipment to infrastructure related to the supply of water or to drains or sewers; and
 - (g) the removal or repair of defective plumbing or sanitary drainage work; and
 - (h) the review of decisions made under the regulations; and
 - (i) the payment of fees.
- (3)** The regulations may make provision in relation to a matter by applying, adopting or incorporating any matter contained in a prescribed standard (however described) as in force or existing from time to time.
- (4)** The regulations may prescribe a maximum penalty for an offence against the regulations of 10 penalty units.

PART 6—TRANSITIONAL

50 Definitions for pt 6

In this Part, the following definitions apply:

commencement day means the day on which this Part commences.

former regulations means the *Canberra Sewerage and Water Supply Regulations* in force under the *Energy and Water Act 1988* immediately before the commencement day.

51 Repeal

(1) The *Canberra Sewerage and Water Supply Regulations* made on 24 October 1933 and notified in the *Commonwealth of Australia Gazette* on 2 November 1933 are repealed.

(2) The following regulations are also repealed:

- regulations made under the *Building and Services Act 1924* on the following dates:
 - 24 July 1936 (notified in the *Commonwealth of Australia Gazette* on 30 July 1936)
 - 22 May 1937 (notified in the *Commonwealth of Australia Gazette* on 3 June 1937)
 - 4 August 1938 (notified in the *Commonwealth of Australia Gazette* on 18 August 1938)
- 1941 No 1
- 1942 No 2
- 1942 No 9
- 1942 No 11
- 1959 No 16
- 1962 No 8
- 1975 No 14
- 1977 No 8
- 1978 No 14
- 1980 No 11
- 1981 No 18
- 1982 No 10
- 1982 No 18
- 1982 No 35
- 1982 No 44

- 1983 No 15
- 1984 No 27
- 1985 No 9
- 1987 No 19
- 1988 No 7
- 1988 No 8
- 1988 No 17
- 1992 No 18
- 1993 No 18
- 1993 No 52
- 1995 No 3
- 1999 No 3.

52 Certifiers

A person holding an appointment as a certifier under the former regulations immediately before the commencement day is, subject to this Act, taken to be a certifier appointed under this Act.

53 Plan approvals

(1) An application for the grant of a plan approval made under the former regulations but not decided before the commencement day is taken to be an application for plan approval under this Act.

(2) Except in relation to a matter occurring before the commencement day—

- (a) an approval from a network utility operator, in connection with the approval of a plan, in force under the former regulations has effect on and after the commencement day as if it were an approval mentioned in paragraph 8 (1) (a); and
- (b) a plan approval in force under the former regulations has effect on and after the commencement day as if it were a plan approval under this Act; and
- (c) an approved plan in force under the former regulations has effect on and after the commencement day as if it were an approved plan under this Act; and

- (d) an approved amendment of an approved plan in force under the former regulations has effect on and after the commencement day as if it were an approved amendment of an approved plan under this Act.

54 Regulations—transitional matters

(1) The Executive may make regulations prescribing transitional matters necessary or convenient to be prescribed because of the repeal of the *Canberra Sewerage and Water Supply Regulations*.

(2) The regulations may also prescribe matters necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Part instead of the provisions made by this Part.

(3) Regulations made for this Part must not be taken to be inconsistent with this Act as far as they are capable of operating concurrently with this Act.

(4) The regulations may modify the operation of this Part to make provision with respect to any matter that is not, or not adequately, dealt with in this Part.

55 Expiry of pt 6

This Part expires 1 year after it commences.

DICTIONARY

(See s 3)

Australian Standard 3500 means Australian Standard 3500 as in force from time to time.

certifier means a registered construction practitioner who is registered in the category of plumbing plan certifier in accordance with the *Construction Practitioners Registration Regulations*.

credit card includes a debit card.

drain means any pipe or conduit connected to, and used for—

- (a) the drainage of a single building; or
- (b) the drainage of any group of buildings by a combined operation in accordance with the regulations;

and communicating with a sewerage network or to a septic tank, on-site sewerage treatment unit or other receptacle for drainage.

fire sprinkler service—see Australian Standard 3500.

function, in relation to an inspector, includes power.

inspector—see section 23 (Appointment of inspectors).

licence means a licence in force under the *Plumbers, Drainers and Gasfitters Board Act 1982*.

MP52 means the Manual of Authorisation Procedures for Plumbing and Drainage Products, published by Standards Australia on behalf of the Agriculture and Resources Management Council of Australia and New Zealand Committee for Plumbing Product Authorisations, entitled ‘SAA MP52’, as in force from time to time.

owner, for land, includes the occupier, lessee, tenant or holder of any land on which any sewerage or water service has been, or is to be, installed.

plan approval means a plan approval issued under section 8 (Issue of plan approvals).

premises includes land and place.

responsible utility means—

- (a) in relation to the sewerage network—a utility licensed to provide sewerage services using the network; and
- (b) in relation to the water network—a utility licensed to provide water services using the network.

DICTIONARY—continued

sewer means any pipe or conduit (other than a drain) used, or for use, for the conveyance of sewage.

sewerage network—see the *Utilities Act 2000*, s 14.

single residential building means a detached house or a building making up no more than 2 residences, and includes—

- (a) a part of such a building; and
- (b) an adjunct to such a building.

site plan—see Australian Standard HB 50 as in force on 1 March 1999. **this Act** includes the regulations.

water network—see the *Utilities Act 2000*, s 12.

Endnote

Penalty units

Section 33AA of the *Interpretation Act 1967* deals with the meaning of offence penalties that are expressed in penalty units.

[Presentation speech made in Assembly on 30 March 2000]