

2003

LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

CONSTRUCTION OCCUPATIONS
(LICENSING) BILL 2003

EXPLANATORY STATEMENT

Circulated by authority of the
Minister for Planning
Mr Simon Corbell MLA

Construction Occupations (Licensing) Bill 2003

Outline

This Bill introduces significant reforms to the regulation of building and construction industry trades. The Bill implements the recommendations of the National Competition Policy Review of Occupational Licensing in the ACT, which reflected reform proposals that had been considered over a number of years.

The legislation introduces a single licensing and disciplinary regime for builders, electricians, plumbers, drainers, gasfitters, building surveyors (certifiers) and plumbing plan certifiers. This replaces the multiple systems that currently exist, and will result in a consistent and transparent approach to the regulation of each trade.

The trades are referred to as construction occupations, and licensees are construction practitioners who provide construction services. Some new provisions have been included to improve the effectiveness of the regulatory scheme, including a demerits points system for licensees.

The current licensing boards, which exist for electricians, and plumbers, drainers and gasfitters, are being replaced by Advisory Boards, which can be established for each construction occupation, or a combination of occupations.

Complementary enhancements have been drawn up for construction legislation that deals with matters like standards and approval requirements for licensed construction workers. These changes appear in the Construction Occupations Legislation Amendment Bill 2003 and the Building Bill 2003. The Magistrates Court (Construction Occupations Infringement Notices) Regulations 2003 create a system of infringement notices for certain offences in relation to the enforcement against unlicensed persons of requirements for construction occupations licensing.

Details of the new system appear in the Construction Occupations (Licensing) Regulations 2003 ("the Regulations"), set out as a schedule to the Bill.

Part 13 of the Bill and part 8 of the Regulations contain transitional arrangements, principally for licences, licence applications and disciplinary action.

Notes on Clauses

Part 1 Preliminary

Part 1 deals with the administrative elements of the Bill. **Clause 1** provides for the title of the Bill. **Clause 2** stipulates that the Act commences on a day to be fixed by the Minister and provides notes about commencement. **Clause 3** explains that the dictionary contained at the end of the Bill is a part of the Bill, and provides notes to explain how the definitions are structured and how they apply to the Bill. **Clause 4** explains that the “notes” that appear in the Bill are aids to interpretation but not part of the Bill.

Clause 5 explains that provisions in other legislation apply to offences committed under the Bill. The notes in Clause 5 explain the application of the *Criminal Code* and *Legislation Act 2001* to the Bill.

Part 2 Important concepts

Part 2 outlines the fundamental concepts that provide the framework for the operation of the Bill.

Clause 6 defines the terms ***construction practitioner*** and ***construction service***. An entity (which can be an individual) that does or supervises the provision of a construction service is a construction practitioner. A ***construction service*** is doing or supervising work in a ***construction occupation***, which is defined in Clause 7. The regulations may define work as being included or excluded from what is “work”. This takes account of the changing nature of the Standards and Codes that apply to the various construction occupations.

Clause 7 lists the ***construction occupations*** that are regulated under this Act. They are: builder, building surveyor, drainer, electrician, gasfitter, plumber, and plumbing plan certifier.

A ***builder*** is defined in **Clause 8** as an entity that provides a building service, which is doing or supervising building work as defined in the *Building Act 2003*. A ***building surveyor*** is defined in **Clause 9** as an entity that provides a building certification service, which is the doing of building certification work. Building certification work is anything that a certifier may or must do under the *Building Act 2003*. A note explains the application of that Act. **Clause 10** defines a ***drainer*** as an entity that provides a sanitary drainage service, which is doing or supervising sanitary drainage work as defined in the *Water and Sewerage Act 2000*. **Clause 11** defines an ***electrician*** as an entity that provides electrical wiring services. An electrical wiring service is doing or supervising electrical wiring work, as defined in the *Electricity Safety Act 1971*. A ***gasfitter*** is defined in **Clause 12** as an entity that provides a gasfitting service, which is doing or supervising gasfitting work as defined in the *Gas Safety Act 2000*. **Clause 13** defines a ***plumber*** as an entity that provides a plumbing service, which is doing or supervising sanitary plumbing work or water supply plumbing work, as defined in the *Water and Sewerage Act 2000*. **Clause 14** defines a ***plumbing plan certifier*** as an entity that provides a plumbing plan certification service, which is doing plumbing plan certification work. Plumbing plan certification work is anything that an appointed certifier may or must do under the *Water and Sewerage Act 2000*.

Clause 15 allows the Regulations to create classes of licence within a construction occupation.

There is a range of legislation that is linked to the Bill and contains requirements in relation to licensees. These **operational Acts** are specified in **Clause 16** as the *Building Act 2003*, the *Electricity Safety Act 1971*, the *Gas Safety Act 2000*, the *Utilities Act 2000* (under which holders of electrical and plumbing licences are authorised to carry out contestable works) and the *Water and Sewerage Act 2000*. A note explains that the Legislation Act makes references to an Act include a range of statutory instruments.

Part 3 Construction practitioners licences

Part 3 outlines the requirements for licence applications, eligibility, decisions on applications, conditions on licences and renewal of licences. Specific requirements for nominees of corporations and partnerships are also in Part 3.

A note at the beginning of the part explains how the provisions on occupational licensing of the *Mutual Recognition Act 1992* and *Trans-Tasman Mutual Recognition Act 1997* affect the operation of the Bill.

Clause 17 enables individuals, corporations or partnerships to apply to the registrar to be licensed. Notes explain that the use of approved forms may be required for an application or fees may be imposed and that other provisions of the Bill limit the right to apply. Corporations or partnerships are only able to apply for a licence in a construction occupation or occupation class if the regulations provide for it. Detailed requirements for applications may be prescribed in the Regulations, and if an application does not meet the requirements of clause 17, the registrar is not required to consider it.

The eligibility provisions for a licence are outlined in **Clause 18**. The clause provides that the Regulations may prescribe when an entity is eligible, or not eligible, to be licensed in a particular construction occupation or class of occupation. The Regulations may include qualifications and the way in which an applicant may, or must, demonstrate that they satisfy the requirements, such as requiring the applicant to pass a practical or written test.

Clause 19 makes the registrar responsible for a decision on whether or not to grant a licence to an applicant. The registrar is able under part 9 of the Bill to delegate this decision-making power. Clause 19 stipulates that the registrar must either issue the licence or refuse to issue the licence. However, the registrar has a discretion to issue a licence other than the licence applied for, with the applicant's agreement, if the applicant is eligible for another licence that is in the same construction occupation, but for a different occupation class. A decision to issue a licence can only be made if the registrar is satisfied that the applicant is eligible to be licensed and is not currently disqualified from holding a licence. If disciplinary action against an applicant or a nominee of an applicant is being taken under this Act, the registrar does not have to decide whether to issue the licence until after the disciplinary action, and any appeal arising from the disciplinary action, is finished.

Clause 20 enables a licence to be issued that authorises the licensee to work in one or more construction occupations and one or more occupation classes. A licence may be limited by conditions or endorsed to enlarge its scope. **Clause 21** enables conditions to be placed on, or removed from, a licence at any time, by issuing a written notice to the lessee. A decision to place conditions on a licence is reviewable by the Administrative Appeals Tribunal. In addition to the registrar's power to impose conditions, the Regulations may prescribe standard conditions on licences and state when conditions on licences (whether imposed under the Regulations or by the registrar) take effect. The fundamental reason for this provision is in order that the work a licensee may undertake can be limited where it becomes apparent that restriction is necessary for public health, safety or amenity as provided for in construction standards. **Clause 22** provides for the registrar to endorse a licence to include a construction service not automatically associated with the licence. However, an endorsement can only be made where the Regulations stipulate that the particular endorsement is allowed. Regulations 30 and 31 have relevant provisions.

There is a range of details that **Clause 23** states must be contained in a licence. The licence must be signed by the registrar and contain the licensee's full name, each construction occupation, and occupation class (where relevant) in which the licensee is licensed, and a unique identifying number (the *licence number*) for each construction occupation and occupation class in which the licensee is licensed. The Regulations can also require or allow other information to be included on a licence.

Under **Clause 24** the maximum term for which a licence can be issued or renewed, is prescribed in the Regulations. **Clause 25** stipulates that a licensee may apply to the registrar for renewal of the licence before the licence expires. If the registrar is satisfied that, if the application were for a new licence of the same kind, the applicant would be eligible to be licensed, the registrar must renew the licence. This does not prevent the registrar from placing conditions on the renewed licence. The renewal of a licence begins on the day after the licence being renewed ends. A suspended licence may be renewed, but the renewed licence remains suspended until the suspension ends.

Clause 26 provides for the voluntary cancellation of a licence if certain criteria are met. The registrar must cancel a licensee's licence if the licensee asks, in writing, for the cancellation and the licensee gives the licence to the registrar or satisfies the registrar that the licence has been lost, stolen or destroyed. The registrar must also be satisfied that the licensee is either no longer able to exercise his or her functions because of mental or physical incapacity, or that arrangements have been made for another licensee to take over the provision of any construction services that remain incomplete, or that it is otherwise appropriate to approve the cancellation.

Nominees

Corporations and partnerships must have a nominee to be eligible to be licensed. There can be more than one nominee for a corporation or partnership.

Clause 27 defines the term *mandatory requirement* which is used in later clauses about nominees.

Clause 28 provides for the appointment of nominees. A corporation or partnership may, in writing, appoint an individual as nominee only if the individual is eligible to be a nominee and the individual agrees in writing to the appointment. People are eligible to be nominees if they are licensed in the category or categories of construction work for which they will be responsible as nominee and hold any other requirements prescribed in the Regulations. Regulation 19 has relevant provisions. If for any reason the appointed nominee is no longer eligible to be a nominee, they automatically stop being the nominee.

Nominees are required to supervise construction work for which they are responsible. A licensee that is a corporation or partnership must ensure that its construction services are adequately directed and supervised by the appropriate nominee.

If a licensee has nominated more than one nominee, each nominee may only carry out the functions in relation to the construction services allocated to the nominee in writing by the licensee.

A nominee may resign his or her appointment only with the approval of the registrar. **Clause 29** enables the registrar to approve the resignation of a nominee if satisfied that the nominee cannot exercise his or her functions because of mental or physical incapacity, or that the nominee, or the entity that appointed the nominee, has arranged for another nominee to take over the nominee's functions, or that the entity that appointed the nominee has refused to comply with a **mandatory requirement** of the nominee or that it is otherwise appropriate to approve the resignation. A **mandatory requirement** is defined in clause 27 as a written requirement by the nominee that the corporation or partnership do something or not do something in compliance with the Bill or an operational Act, or to achieve compliance.

Clause 30 provides that a corporation or partnership may revoke a nominee's appointment only with the registrar's approval and identifies mental or physical incapacity and arrangements for another nominee to take over the nominee's functions as relevant considerations.

A nominee has a range of responsibilities once they have agreed in writing to be appointed as a nominee. **Clause 31** specifies that the nominee's functions are to adequately direct and supervise the licensee's construction services, and to ensure that the construction services done by the licensee complies with the Bill and the operational Acts.

A nominee must not exercise functions in relation to work that the nominee is not licensed to do. The licensee is also considered to have committed an offence if their nominee fails, without reasonable excuse, to exercise the nominee's functions under this clause.

These are offences of strict liability, which narrows the range of defences available. The potential consequences for future owners and users of buildings and the public of a failure to have construction services carried out adequately are the justification for this provision. However, nominees can satisfy their obligations by giving a **mandatory requirement** to the licensee, providing notice of it to the registrar and informing the licensee that this notice has been provided.

Clause 32 stipulates that part 19.3 (Appointments) of the Legislation Act does not apply to the appointment of a nominee.

Part 4 Rectification orders and other obligations on licensees

Part 4 contains provisions that place certain obligations on licensees. It covers the issue of rectification orders and the requirement to give evidence of insurance.

Rectification Orders

It is important that licensees take full responsibility for the construction services they provide. If that work is not done in accordance with this Act or an operational Act the registrar is able to make an order that requires the licensee to rectify the work.

Clause 33 defines the meaning of *authorised action* and *authorised licensee*, which are terms used in later clauses dealing with rectification orders.

Clause 34 applies if the registrar has reasonable grounds to believe that a licensee (or former licensee) has provided a construction service in a way not in accordance with this Act or an operational Act and that it may be appropriate to issue a rectification order. The clause includes examples of relevant circumstances and a note explaining the significance of examples. Clause 34 requires the registrar to give written notice to the licensee and the owner of the land where the construction service was provided, of the intention to make a rectification order. The written notice must give details of the rectification order that may be made, explain why the registrar intends to make the order and invite submissions about the making of the order within not less than five working days after the day the person receives the notice.

Once the registrar has given the licensee a notice under clause 34 and considered any submissions made within the time mentioned in the notice, **Clause 35** enables the registrar to make an order under Clause 37. The registrar must be satisfied that the person is contravening, or has contravened, this Act or an operational Act and that it is appropriate to make a rectification order. However the clause prevents an order from being given where the registrar is satisfied that the relevant contravention happened, or was part of something that ended, more than 10 years previously and provides an example.

Clause 36 gives the registrar the discretion to not issue a rectification order, if the relationship between the licensee and land owner is such that it would be inappropriate do so. Where that is the case, the registrar is still able to authorise another licensee to undertake rectification work, with the costs incurred being the responsibility of the original licensee. That other licensee must give the land owner notice of the licensee's intention to begin work. A decision of the registrar to authorise a licensee under Clause 36 is reviewable by the Administrative Appeals Tribunal and may not be carried out while a review is under way or may be applied for.

A rectification order under **Clause 37** can require a licensee (or former licensee) to rectify work or demolish a building or part of a building and rebuild in accordance with legislative requirements. The registrar can also require stated work that has been

done or is being done or is proposed to be done, to be commenced or finished within a specified period of time. If the entity is not licensed to do the work required, they must arrange and pay for the work to be done by a licensee. This covers, for instance, circumstances where a licensee has done work that they are not licensed to do, that needs to be finished or rectified. The order must state a period of not less than one month, within which the rectification work must be done, though this does not apply to an emergency rectification order under the next clause. A note refers to a provision of the Bill that requires details of rectification orders to be recorded on the register of licensees. The registrar must provide a copy of the order to the land owner.

Clause 38 specifies the circumstances in which the registrar can issue a licensee or former licensee with an emergency rectification order. This enables the order to be given without issuing preliminary notice under clause 34. To do this the registrar must be satisfied that the person has provided a construction service in a way not in accordance with the Bill or an operational Act. The registrar must also be of the view that the immediate need to protect the health or safety of people, to protect public or private property or to protect the environment, is more important than giving a notice under clause 34.

An emergency rectification order must include a statement explaining that the order is an emergency rectification order. The order must explain that if the thing ordered to be done is not done within a stated period (of not less than 24 hours) the Territory may authorise a licensed person to enter the land where the thing is to be done to do the thing ordered, that neither the Territory nor the authorised licensee need give the land owner or person against whom the order is made further notice of the authorised licensee doing the thing on the land, and that the licensee against whom the order has been made will be liable for the reasonable cost incurred in doing the thing ordered.

Clause 39 makes it an offence to intentionally fail to comply with a rectification order. Each partner in a partnership commits an offence if the partnership is given a rectification order and the partners, or some of them, fail to comply with an order. Offences under this clause are of strict liability, which narrows the range of defences available. Failure to comply with a rectification order has serious potential consequences for future owners and users of buildings and the public. However, it is a defence to a prosecution for an offence if a partner proves that they did not know about the failure to comply and took all reasonable steps to avoid the contravention or that they were not in a position to influence the other partners in the failure to comply. In large partnerships some partners may not be involved in the business operations.

If a person fails to comply with a rectification order **Clause 40** enables the Territory to authorise in writing, a licensee to enter the land where the work is to be done and take the action stated in the order. The licensee may take the action specified in the order or start or finish the work stated in the rectification order. That licensee is required to give the owner of the land at least 24 hours written notice that they intend to enter the land. The authorised licensee must also give a copy of the notice to the person to whom the order was issued before entering the land.

If the person to whom the rectification order was issued has applied to the Administrative Appeals Tribunal for review of the order, the Territory is not able to authorise someone else to undertake the work until a decision on the application has been made or the review period has ended. The person to whom the order was issued is liable for the reasonable cost incurred in doing anything under the rectification order and the cost is taken to be a debt owing to the Territory.

Clause 41 relates to emergency rectification orders under Clause 38. Where the registrar has made an emergency rectification order and the order is contravened, the Territory may, in writing, authorise a licensee to enter the land where the work to which the emergency rectification order applies, and take the action stated in the rectification order or start or finish the work stated in the order. The person to whom the rectification order was issued is liable for the reasonable cost incurred in doing anything under the order and the cost is taken to be a debt owing to the Territory.

Under **Clause 42**, it is a strict liability offence to hinder a person that is known to be an authorised licensee from undertaking an authorised action. This narrows the range of defences available but there are serious potential consequences for future owners and users of buildings and the public from a failure to allow construction services to be carried out adequately. When an authorised licensee is undertaking authorised action, **Clause 43** requires them to ensure that they, and anyone assisting them, take all reasonable steps to avoid causing damage, inconvenience or detriment when undertaking the authorised work. If damage occurs, the authorised licensee must provide a written notice to the owner of the land detailing the damage. If the owner is not present, the notice may be delivered by being fixed in a conspicuous place on the premises entered. A person is able, under **Clause 44**, to claim reasonable compensation from the Territory if they suffer loss or expense because of the actions of an authorised person or anyone assisting them. The compensation must be claimed and ordered in a court on the basis of the individual case, or through an offence proceeding under the Bill against the person making the claim. The Regulations may prescribe matters that may, must or must not be taken into account by the court in considering the claim.

Clause 45 stipulates that an authorised person does not incur civil liability for authorised action done honestly, and that the liability attaches to the Territory. However, disciplinary action can be taken against the authorised licensee if they do anything while undertaking the authorised work that would allow such action to be taken.

Other requirements

To facilitate consumer access to important insurance information, **Clause 46** requires licensees to give evidence of the insurance they hold before providing a construction service to a person. This includes advising the person if they hold no insurance. The licensee may ask the client to sign an acknowledgment that the client has been told about the licensee's insurance arrangements. The acknowledgment must state the time and date it was given. If the client signs the acknowledgement, the licensee must immediately provide the client with a copy. The clause indicates that a licensee can be taken to have complied with the requirement if before giving a service the licensee advertised the insurance currently held in a way that was likely to have come

to the client's attention. The clause includes examples of advertising. The clause stipulates that evidence of insurance includes a fidelity certificate under the *Building Bill 2003*. A fidelity certificate is an alternative under that Bill to residential building work insurance.

If a dispute arises as to whether or not the client was advised of the licensee's insurance arrangements, the registrar may assume that the client was not told about the licensee's insurance if an acknowledgment under this clause is not produced or the licensee cannot otherwise prove that the client was advised about the insurance and the information was not adequately publicised through the licensee's advertising.

Part 5 Automatic licence suspension and disciplinary action

Part 5 outlines the circumstances in which a licence can be automatically suspended, and the disciplinary process where the registrar determines that the grounds for taking action exist.

Automatic licence suspension

If a licensed individual provides, or proposes to provide, a construction service for a fee and becomes bankrupt or applies to take the benefit of any law for the relief of insolvent debtors, **Clause 47** stipulates that the licence is automatically suspended. This does not apply to an individual who continues to act as the nominee for a partnership or corporation but a note explains that the Regulations may impose conditions on a licence and the provision is restricted by Regulation 24. **Clause 48** provides that a corporation's licence is automatically suspended if the licensee enters into a winding-up or is found guilty, whether in the ACT or anywhere else, of an offence that involves fraud, dishonesty or violence and is punishable by imprisonment for at least one year. Under **Clause 49** a partnership licence is automatically suspended if a partner's licence in the same occupation or class is suspended or cancelled. The licence is also automatically suspended if a partner who is not a licensee is found guilty, whether in the ACT or anywhere else, of an offence that involves fraud, dishonesty or violence and is punishable by imprisonment for at least one year.

The licence of a building surveyor is automatically suspended under **Clause 50** if the licensee stops being eligible to be a building surveyor because the person is not insured in accordance with the Regulations. The person's building surveyor's licence is automatically suspended when the insurance cover stops. For a plumbing plan certifier licence an automatic suspension occurs under **Clause 51** if a licensed plumbing plan certifier stops being eligible to be a plumbing plan certifier because the person is not insured in accordance with the Regulations. The person's plumbing plan certifier licence is automatically suspended when the insurance cover stops.

Under **Clause 52**, the registrar must revoke an automatic suspension if satisfied that the cause of the suspension no longer exists. The registrar also has the discretion to revoke an automatic suspension if satisfied that the thing that caused the suspension will not put consumers of the licensee's construction services at a greater risk from using the services than if the thing had not happened. The registrar is required to provide a written notice of the revocation to the licensee. An automatic suspension

ends 3 months after the day it begins, unless it is otherwise revoked. A note refers to the possible effect under another provision of the Bill of suspension on a new licence.

Disciplinary action by registrar

Clause 53 lists the *disciplinary grounds* in relation to a licensee. A *disciplinary ground* must exist for the registrar to commence disciplinary action. The grounds are:

- (a) the licensee, or a nominee or employee of the licensee, contravened or is contravening, the Bill or an operational Act (including a direction given to the licensee under an operational Act);
- (b) the licensee, knowingly or recklessly, gave someone information in relation to a construction service provided, or to be provided, by the licensee that was false or misleading in a material particular;
- (c) the licensee or a director, partner or nominee of the licensee, has been found guilty, in the Territory or somewhere else, of an offence that-
 - i) involves fraud, dishonesty or violence; and
 - ii) is punishable by least 1 year of imprisonment.
- (d) if the licensee is an individual – the licensee has compounded with creditors or made an assignment of remuneration for their benefit;
- (e) if the licensee is a corporation-
 - i) the licensee enters into a scheme of arrangement; or
 - ii) a receiver, manager, receiver and manager, or administrator is appointed over the licensee or any of its assets;
- (f) if the licensee is a corporation or partnership – the licensee has, or had, no nominee;
- (g) the licensee’s licence has been automatically suspended under the provisions of the Bill for automatic licence suspension and the cause of the suspension still exists.

The clause states that the disciplinary ground under 53 (1) (a) includes contraventions of the Criminal Code, whether of part 2.4 of the code, or in relation to the provision of documents or failure to provide them, or in relation to doing or not doing something, if one of these things is done in relation to the Bill or an operational Act. The effect of this provision is that actions in relation to documentation that are offences and may lead to disciplinary action under the current licensing scheme may continue to be taken into account for disciplinary action under the Bill even though the offences are now under the Criminal Code in accordance with current legal policy.

A disciplinary ground applies to a former licensee if the disciplinary ground applied to the former licensee while licensed.

Clause 54 provides for the registrar to give a disciplinary notice under **Clause 55** if satisfied that a disciplinary ground exists in relation to a licensee or former licensee. A disciplinary notice given to a licensee or former licensee must include certain information. The notice must state each disciplinary ground that caused the notice to be given, describe the contravention of the Bill or an operational Act if one is involved and for this purpose use the “short description” set out in the Regulations if one is applicable, and otherwise state details of each ground that the registrar is satisfied would allow a reasonable person to identify the circumstances that give rise to the

ground. The notice must also advise the licensee or former licensee that he or she may, within 12 business days after the day the licensee is given the notice, give a written response to the registrar about the matters in the notice.

If a notice mentions a ground based on a construction service provided or not provided, or alleged to have been provided or not provided, the registrar may give a copy of the notice to the owner of any premises to which the work relates and must do so if asked. The registrar may also give a copy of the notice to any certifier appointed under the *Building Act 2003* in relation to the work and must do so if asked.

If the registrar has given, or proposes to give, a disciplinary notice to a licensee, **Clause 56** enables the registrar to immediately suspend (an *interim suspension*) the licensee's licence by written notice given to the licensee. The registrar may issue an interim suspension if the registrar believes, on reasonable grounds, that it is in the public interest to suspend the licence before making a decision under Clause 59. The registrar must take into account the circumstances leading to the decision to send the disciplinary notice and the grounds stated, or to be stated, in the notice. An interim suspension may be for a period up to two weeks, but may be extended once for one week if the registrar is satisfied that it is in the public interest to extend the suspension. Notes refer to the provisions of the Legislation Act on the service of notices and draw attention to a provision in the Bill that requires an interim suspension to be registered.

If the registrar issues an interim licence suspension, **Clause 57** stipulates that the licence is suspended as soon as the licensee receives the notice. The suspension ends when the licensee receives a notice of revocation under Clause 58, or the registrar makes a decision under Clause 59 in relation to the licence, whichever occurs first.

The registrar, under **Clause 58**, may revoke an interim suspension at any time before making a decision under Clause 59. The revocation must be made in writing to the licensee. If the registrar revokes the suspension of a licensee licensed as a builder, the registrar must notify in writing each person notified of the suspension under Clause 61(3).

Where the registrar has given a licensee or former licensee a disciplinary notice, **Clause 59** provides that the registrar may take disciplinary action in relation to the licensee or former licensee if satisfied on reasonable grounds that a disciplinary ground is established in relation to the licensee or former licensee. A note refers to the power of the registrar to take disciplinary action in relation to demerit points. Clause 59 requires the registrar to take into account any response given to the registrar in accordance with the disciplinary notice and may hold an inquiry under the provisions of the Bill on disciplinary inquiries, before making the decision on what disciplinary action to take.

If the registrar takes disciplinary action against a licensee or former licensee, the registrar must notify the licensee or former licensee in writing about the decision. The registrar must state in the notice when the action takes effect, which can be when the

notice is given to the licensee or former licensee or on a later date stated in the notice.

If the registrar decides to take disciplinary action in relation to a licensee or former licensee, **Clause 60** enables the registrar to do one or more of the following:

- (a) reprimand the licensee or former licensee;
- (b) require the licensee, or, if the licensee is a corporation or partnership, a nominee of the licensee, to complete a specific course of training to the satisfaction of the registrar or another stated person;
- (c) impose a condition on the licence, or vary an existing condition;
- (d) order the licensee to pay to the Territory a financial penalty of up to \$1 000;
- (e) suspend the licence for a period (which may be longer than the remaining period of the licence) or until a certain thing happens;
- (f) cancel the licence;
- (g) cancel the licence and disqualify the licensee from applying for a licence for a period or until a certain thing happens;
- (h) disqualify the former licensee from applying for a licence for a period, until the former licensee completes a specific course to the satisfaction of the registrar or another stated person or until a certain thing happens.

A financial penalty under (d) can be recovered by the Territory as a debt. A note refers to a relevant provision of the Legislation Act.

If a builder's licence is under an automatic suspension, interim suspension, or subject to disciplinary action under Clause 60 (1) (c), (e), (f) or (g), **Clause 61** requires the registrar to notify each building certifier. The notice must be in writing, given as soon as practicable, and provide details about the disciplinary action or other action taken in relation to the licensee's builder's licence. The registrar must also notify each building certifier, in writing, if the registrar had notified the building certifiers about the taking of disciplinary action or other action and the decision to take the action is reversed or the action is reversed, stayed, varied or set aside.

Clause 62 outlines the requirements for public notice of a registrar's decision to take disciplinary action against a licensee or former licensee. The registrar may notify the public of the matters prescribed under the Regulations by publishing those matters in relation to the decision in a daily ACT newspaper and in any other way the registrar considers appropriate. Regulation 33 has relevant provisions. The decision may only be publicly notified if the time for any review of the decision has ended and no application for appeal or review has been made or application for review has been made, and the decision has been confirmed on review and the time for further appeal has ended. If the decision has been reversed or vacated, the decision must not be publicly notified. If the decision has been altered, the public notification requirements apply to the decision as altered.

Clause 63 deals with circumstances where a licence has been suspended for a period of time, and the suspended licence expires before the end of the suspension period. If the licensee who was issued the expired licence is issued a new licence in the same construction occupation or class within three years of the expiry date of the original licence, then the new licence is suspended for the remainder of the incomplete suspension period.

Disciplinary inquiries

If the registrar decides to hold an inquiry in relation to a licensee or former licensee, **Clause 64** requires the registrar to give the licensee or former licensee at least two weeks written notice of the inquiry. The notice must be accompanied by a copy of the disciplinary notice given to the licensee or former licensee under Clause 55. The notice must state whether the registrar considers that any disciplinary ground no longer applies, or has changed, because of any written response made by the licensee or former licensee and, if a ground has changed, how it has changed. The notice must also explain that the inquiry may result in the taking of disciplinary action against the licensee or former licensee and tell the licensee or former licensee where and when the inquiry will be held. A note explains that the use of approved forms may be required. **Clause 65** enables the registrar to decide any procedure for an inquiry that is not prescribed under this Act, and allows the registrar to adjourn an inquiry.

Under **Clause 66**, when an inquiry is held, the registrar may take evidence on oath or affirmation and is not bound by rules of evidence but may inform himself or herself in anyway the registrar considers appropriate. At an inquiry, a licensee or former licensee whose actions are being inquired into may call witnesses. **Clause 67** allows a licensee or former licensee to be represented at an inquiry by a lawyer who may examine witnesses and address the registrar on behalf of the licensee or former licensee. The registrar may appoint a lawyer to examine witnesses in an inquiry and advise the registrar on any matter relating to the inquiry.

If the matter to be considered at an inquiry in relation to a licensee or former licensee is complex or technical, **Clause 68** enables the registrar to require the relevant advisory board under the Bill to advise the registrar in relation to the issues.

Clause 69 enables the registrar to require, in writing, a person to appear before the inquiry on a stated date to give evidence, or produce any document or thing in the possession, custody or control of the person or do both of these. The registrar may set aside a requirement for a person to give evidence or produce documents or other evidence.

A person is taken to have complied with a requirement to produce a document or other evidence if the person delivers the document or thing to the registrar before the date stated in the requirement. The registrar may give a party to the inquiry leave, which may be subject to conditions, to inspect a document or thing produced under this clause and make copies of a produced document for the inquiry.

A person commits an offence if they fail to comply with a requirement made of them under this section. This is an offence of strict liability, which narrows the range of defences available. Failure to assist an inquiry may allow a licensee to continue providing substandard construction services, with serious potential consequences for future owners and users of buildings and the public.

Where a person is required to attend an inquiry to give evidence or give evidence and produce a document or other evidence, **Clause 70** requires the notice to be

accompanied by an undertaking to appear, to be signed by the person and returned to the registrar by the stated date. It must also include a form to be completed by the person to claim the reasonable costs and expenses of attendance at the inquiry. A person is not entitled to refuse to comply with the requirement because the requirement was not accompanied by the form.

Miscellaneous

If a licensee is licensed in more than one construction occupation or in more than one occupation class within an occupation, **Clause 71** enables the registrar to suspend, or cancel the licence, or impose or vary a condition on it, under this part, in relation to a single occupation or occupation class, or each occupation or class, as appropriate. A note to this clause refers to a provision of the Bill on the possible scope of licences.

If a licensee surrenders their licence because the licence was suspended, **Clause 72** requires the registrar to return the licence no later than the last day of the suspension. If the licence is varied during the suspension period, the licence as varied must be returned. If the licence has expired, or is cancelled during the suspension period, the registrar is not required to return it.

Part 6 Enforcement

Part 6 contains provisions that deal with the role of compliance auditors.

Clause 73 defines *compliance auditor* as a compliance auditor appointed under Clause 74. Under **Clause 74**, the registrar is empowered to appoint a public servant to be a compliance auditor for the Bill, and an appointment must not be for longer than five years. Notes refer to provisions of the Legislation Act about appointments and reappointments. The role of a compliance auditor under **Clause 75** is to be responsible for auditing the forms and other paperwork required to be provided by licensees for the Bill and the operational Acts. A compliance auditor has any other function given to the compliance auditor by the registrar.

Clause 76 requires the registrar to issue a compliance auditor with an identity card, that states the person is a compliance auditor for the Bill, or for stated provisions of the Bill. The card must show a recent photograph of the person and their name or the particulars that are prescribed under the *Magistrates Court Act 1930* as the identifying particulars for the person (or both). The card must also show the date of issue of the card, a date of expiry for the card; and anything else prescribed under the Regulations. A person commits an offence if the person ceases to be a compliance auditor and does not return their identity card to the registrar as soon as practicable (but within seven days) after they cease to be a compliance auditor. This is an offence of strict liability, which narrows the range of defences available. The need to ensure that a person who purports to be a compliance auditor and to exercise the powers of one is currently authorised is the reason for this provision.

Clause 77 stipulates that a compliance auditor may not exercise a function under the Bill in relation to a person until the compliance auditor shows the person his or her identity card. The functions of compliance auditors are described in **Clause 78** as the doing of one or more of the following actions in relation to the premises (other than residential) used by a construction practitioner that they have entered:

- (a) inspect any document on the premises that relates to the licensee’s activities; and
- (b) take an extract from or make a copy of any document that relates to the licensee’s activities;
- (c) require anyone on the premises to give the compliance auditor information about a document that relates to the licensee’s activities;
- (d) require a person apparently in charge of the premises—
 - (i) to produce a document that relates to the licensee’s activities; or
 - (ii) to give the compliance auditor access to a computer on the premises in which information relevant to the licensee’s activities is stored; or
 - (iii) to print information mentioned in the previous item.

The clause gives examples of what “documents” are.

A compliance auditor may enter the premises during ordinary business hours and with any assistance that is necessary and reasonable. The compliance auditor is not authorised to remain on the premises if they do not produce their identity card at the request of, or on behalf of the occupier or person apparently in charge of the premises. The occupier or person in charge of the premises must give the compliance auditor all reasonable facilities and assistance the compliance auditor needs for the effective exercise of his or her functions under this clause. A note refers to the provisions of the Legislation Act on self-incrimination and legal privilege.

Part 7 Offences

Part 7 contains offence provisions for the Bill.

Under **Clause 79**, it is an offence for a person who is not licensed in a construction occupation or occupation class to pretend to be licensed in the occupation or class. This is an offence of strict liability, which narrows the range of defences available. An unlicensed person may provide substandard construction services, with serious potential consequences for future owners and users of buildings and the public. It is an offence under **Clause 80** for a corporation to advertise or otherwise offer to provide a service in a construction occupation or occupation class if they do not have a nominee with a licence that authorises the nominee to provide the service.

Each partner in a partnership commits an offence if the partnership advertises or otherwise offers to provide a service in a construction occupation and they do not have a nominee who has a licence that authorises the nominee to provide the service. Offences under this clause are of strict liability, which narrows the range of defences available. An unlicensed person may provide substandard construction services, with serious potential consequences for future owners and users of buildings and the public. However, a partner may prove that they did not know about the advertising or other offer and took all reasonable steps to avoid committing the offence or that they were not in a position to influence the advertising or the offers made by the partnership. In large partnerships some partners may not be involved in the business operations.

Clause 81 stipulates that it is an offence if a person advertises that the person provides, or will provide, a service in a construction occupation or occupation class and does not include the person’s name as recorded on the licence (including the

ACN of a corporation) and licence number in the advertisement. This is an offence of strict liability, which narrows the range of defences available. An unlicensed person may provide substandard construction services, with serious potential consequences for future owners and users of buildings and the public.

It is an offence under **Clause 82** for a person to provide a service (as an employee or otherwise) in a construction occupation or occupation class if they are not licensed in the relevant occupation or class, or if there is not an endorsement on the licence that authorises the provision of the service. This is an offence of strict liability, which narrows the range of defences available. An unlicensed person may provide substandard construction services, with serious potential consequences for future owners and users of buildings and the public. However, no offence is committed where the person provides the service working under the supervision of a licensee whose licence authorises the provision of the service and the licensee is authorised to supervise the work. This would, for example, apply to a person who is undertaking a traineeship that requires “on the job training” under supervision. Details of work that may be carried out under supervision may appear in the Regulations and Regulation 34 (Services that may be provided without licence) has relevant provisions.

It is an offence under **Clause 83** for a person to engage someone else or allow an employee (the **worker**) to provide a construction service for the person, if the worker is not licensed for that purpose and the person is reckless about whether the worker is licensed. These provisions do not apply to a person who provides a service under the supervision of a licensee authorised to supervise the provision of the service, if the Regulations allow the service to be provided by a person without a licence under the supervision of a licensee.

Clause 84 stipulates that it is an offence if a person’s licence has been suspended or cancelled and the person does not surrender the licence to the registrar within two weeks after the day of suspension or cancellation. In a partnership, each partner commits an offence if the partnership’s licence has been suspended or cancelled and the partnership does not surrender the licence to the registrar within two weeks after the day of suspension or cancellation, unless the partner proves that the partner took all reasonable steps to surrender the licence. It is a defence to prove that the licence has been destroyed, lost or stolen. A partner may prove that they did not know about the failure to surrender the licence and took all reasonable steps to avoid the failure or that they were not in a position to influence the other partners in the failure to surrender the licence. In large partnerships some partners may not be involved in the business operations.

It is an offence under **Clause 85** to breach any licence condition or code of practice applicable to the licence. This is an offence of strict liability, which narrows the range of defences available. An unlicensed person may provide substandard construction services, with serious potential consequences for future owners and users of buildings and the public. These are offences of strict liability, which narrows the range of defences available. Breaches of licence conditions or codes of practice may result in substandard construction services, with serious potential consequences for future owners and users of buildings and the public. Where the licensee is a partnership, each partner commits an offence but a partner may prove that they did

not know about the contravention and took all reasonable steps to avoid committing the contravention or that they were not in a position to influence the other partners over the contravention. In large partnerships some partners may not be involved in the business operations..

An insurer commits an offence under **Clause 86** if the insurer provides a policy of insurance required by a person who is, or is applying to be, a licensed building surveyor or plumbing plan certifier and then cancels the insurance and fails to give the registrar written notice of the cancellation of the insurance policy within three days after the day of cancellation. This is an offence of strict liability, which narrows the range of defences available. Insurance is intended to insure that certifiers have resources to meet their obligations in relation to substandard construction services.

Part 8 Demerit Points System

Part 8 establishes a demerit points system for licensees and former licensees, and outlines the operations of the system.

Clause 87 provides definitions of key terms. A **demerit disciplinary ground** is the same as a ground for taking disciplinary action under clause 59, except that it excludes a disciplinary ground that is an offence for which an infringement notice may be issued. The **infringement notice** referred to is defined in section 117 (Definitions for pt 8) of the *Magistrates Court Act 1930*, as that Act contains the process for the issuing of infringement notices. Other definitions include **demerit points register**, **disciplinary incident** and **licensee**, which includes a former licensee who was licensed when the disciplinary incident for the demerit disciplinary ground occurred.

Clause 88 clarifies the use of the term **previous three years** in part 8 of the Bill. The three year period is in relation to a licensee who has incurred demerit points, and the three year period ends on the day the licensee last incurred a demerit point. The three years does not include a period when a person was unlicensed if that period is less than three years. If a licensee incurs demerit points while unlicensed and then becomes licensed within three years of incurring the demerit points, the remainder of the **previous three years** attaches to the new licence.

If a demerit disciplinary ground exists, **Clause 89** requires the registrar to record in the demerit points register the number of demerit points assigned to the ground and to which construction occupation the points relate and to record them for the day when they were **incurred**. When the disciplinary ground is not specific to a construction occupation, the demerit will be recorded against the main occupation in which the licensee was providing construction services at the time of the disciplinary incident. The Regulations set the number of points for a ground. **Clause 90** clarifies that the licensee to which the demerit disciplinary ground relates **incurs** a demerit point on the day when the registrar first becomes aware of the disciplinary incident.

The demerit point has a life of three years from when it is incurred except as described in Clause 97. Under **Clause 91**, the demerit points that attach to a licence at the time of a disqualification, suspension or other disciplinary action, and were taken into account for that action, are deleted from the register when the period of the disqualification, suspension or disciplinary action begins. This does not prevent the registrar from retaining a record of deleted demerit points in another place.

If the registrar records a demerit point against a licensee and in the **previous three years** the licensee has accumulated at least ten other demerit points, **Clause 92** requires the registrar to write to the licensee and advise him or her of how many demerit points are recorded against the licence and the effect of the demerit points system. The only circumstance in which the registrar is not required to write to the licensee, is when a notice under Clause 92 has already been sent within the previous three months. If the registrar fails to send the written notice, it does not affect the validity of anything done by the registrar or a court. A note refers to the provisions of the Legislation Act on the service of notices.

If a licensee has incurred 15 or more demerit points within a construction occupation within the **previous three years**, **Clause 93** allows the registrar to serve a notice of licence suspension, or disqualification on the licensee. Alternatively the registrar may take other disciplinary action against the licensee if particular circumstances do not support suspension or disqualification. Before making a decision on the appropriate action to take, the registrar must take into account the need to protect public safety, the financial capacity of the licensee, the nature and regularity of the breaches, and the likelihood of further disciplinary incidents relating to the licensee. The registrar may also take into account any other relevant information.

Under **Clause 94** if a licensee applies for a new or renewed licence, and has within the **previous three years** incurred 15 or more demerit points within the construction occupation in which they are applying for a new or renewed licence, the registrar may refuse to issue the licence and issue a notice of licence disqualification under clause 96 (Licence disqualification). If the registrar refuses to issue the licence, the registrar must service a notice of licence disqualification on the licensee. The registrar may only take this action if satisfied that the public would be at risk if the licensee were allowed to provide the construction service authorised by the licence.

Clause 95 outlines what information must be contained in a notice of licence suspension served on a licensee by the registrar. The notice must state the date of the notice, each construction occupation or class affected (which may be all the occupations or classes a licence relates to), a date, at least 21 days after the day the notice is served, on which the suspension is to begin, and the period of the licence suspension. The notice must also include any information required under the Regulations, and may include any additional information the registrar considers appropriate. The effect of the notice is to suspend the licence for the period stated in relation to each occupation or class mentioned in it. A note refers to the provisions of the Legislation Act on the service of notices.

Clause 96 outlines what information must be contained in a notice of disqualification served on a licensee by the registrar. The notice must state the date of the notice, each construction occupation or class affected (which may be all the occupations or classes a licence relates to), a date, at least 21 days after the day the notice is served, on which the disqualification is to begin, that any existing licence of the licensee is cancelled from that date and the period of the licence disqualification. The notice must also include any other information required under the Regulations, and may include any additional information the registrar considers appropriate. The effect of the notice is to cancel any licence for the period stated in relation to each

occupation or class mentioned in it (which may be all the occupations or classes for which the person is licensed) and to make the licensee ineligible to apply for or be issued a licence for the period of the disqualification. A note refers to the provisions of the Legislation Act on the service of notices.

There will be circumstances where a breach to which demerit points are attached is discovered on or before the date of a notice of licence suspension or disqualification has been served, but are not taken into account for that notice. Similarly, the licensee may incur demerit points after the date of the notice but before the licence suspension or disqualification period begins. In these circumstances **Clause 97** provides that those demerit points will be taken into account for the relevant licence, when the period of the licence suspension or disqualification ends.

Clause 98 enables the registrar to give a notice of licence suspension or licence disqualification to a licensee without giving the licensee an opportunity to make representation why the notice should not be given.

Clause 99 clarifies how the demerit points register is to be kept. The register may include information given to the registrar under the Bill, and any other appropriate information. The register can be kept in any form that the registrar considers appropriate, such as a computer database or part of one or more databases. The registrar is able to correct any errors or omissions in the register, subject to any requirements in the Regulations. Regulation 10 contains relevant provisions. The provisions of Clause 99 do not limit the functions of the registrar in relation to the register.

Clause 100 makes the registrar responsible for ensuring that the information on the demerit points register is kept secure in accordance with relevant laws. A note refers to the application of the *Privacy Act 1988* (Commonwealth) and the Information Privacy Principles. This means that the information cannot be made generally available as it contains personal information about the licensee. Another note points out that the *Freedom of Information Act 1989* applies to disclosure of information on the register. However, the registrar is required to give a licensee information about the licensee's demerit points if the licensee applies for it.

Part 9 Administration

Part 9 contains provisions relating to the functions and responsibilities of the Construction Occupations Registrar (registrar).

Clause 101 enables the chief executive to appoint a public servant as the Australian Capital Territory Construction Occupations Registrar (the *registrar*). The appointment cannot be for longer than three years. In addition, the clause prohibits the appointment of a person who does not have one of the qualifications or experience set out in the clause. These include qualifications in building, building surveying, draining, electrical, engineering, gasfitting, plumbing, and the administration of building or construction industry regulatory schemes. A note refers to relevant provisions of the Legislation Act.

Clause 102 outlines the functions of the registrar, which are listed as:

- (a) to keep the registers under the Bill;
- (b) to administer operational legislation;
- (c) to decide applications in relation to licences;
- (d) to maintain the standard of construction occupations by—
 - (i) acting on complaints made about construction practitioners, including by disciplining construction practitioners if appropriate; and
 - (ii) developing and maintaining codes of practice; and
 - (iii) providing construction practitioners with information about developments in the construction industry.

The registrar has any other function that is given to the registrar under the Bill or another Territory law.

Clause 103 enables the registrar to delegate the registrar's functions under the Bill or another Territory law to a public servant. A note refers to relevant provisions in the Legislation Act. The registrar may appoint deputy registrars under **Clause 104** for each construction occupation, and the appointment must not be for longer than two years. A deputy registrar may exercise the functions of the registrar (other than the power to delegate a function) in relation to the construction occupation for which the deputy is appointed. This provision does not prevent the registrar from limiting the functions the deputy registrar may exercise, either in the instrument of appointment or in writing at a later date. If the registrar gives the deputy registrar written directions about the exercise of a function, the deputy registrar must then exercise that function in accordance with the directions.

Under **Clause 105**, the registrar is required to keep a register of licensees. A note refers to provisions in the Regulations that specify information that must appear in the register. The register may be kept in any form, including an electronic form, and can be divided into parts. The registrar must make the register available to the public.

If the registrar makes a rectification order, **Clause 106** requires the registrar to include in the register the date the order was made and what the rectification order required. This information cannot be included in the register until the period allowed under the *Administrative Appeals Tribunal Act 1989* to apply for a review of the order has expired, or the Administrative Appeals Tribunal has, on application, reviewed the decision but not set aside the rectification order.

If the registrar is satisfied that a person has contravened a rectification order and the registrar proposes to include the details of the contravention in the register, **Clause 107** requires the registrar to tell the person in writing of the intention to include the details of the contravention in the register. The person may then make a submission to the registrar about the inclusion of the details within the time (the **stated time**) stated in the notice, which must be at least two weeks. The registrar may include details of the contravention in the register if, after considering any submission made within the stated time, the registrar is satisfied that the person contravened the rectification order and that it is appropriate to include the details in the register.

If the registrar suspends a licence under clause 56 (interim licence suspension), **Clause 108** requires the registrar to immediately include details of the suspension in

the register. The details must include the date of suspension, the length of the suspension, and whether the suspension has been extended.

Clause 109 deals with the removal of information about rectification orders, contravention of such orders and interim licence suspensions from the register. It provides that a person may apply for the removal of information about themselves and that the registrar, upon receiving this application, may remove the information if no fresh information of one of these kinds has been recorded in the course of at least five years. The registrar may retain this information in another place.

Clause 110 requires the registrar to give to the Minister within two months after the end of each financial year a report that sets out the information prescribed under the Regulations in relation to disciplinary action taken under the Bill during the year. Regulation 43 contains relevant provisions.

Under **Clause 111**, the registrar may issue a certificate, signed by the registrar, stating that on a date or during a specific period an entity named in the certificate, was or was not licensed. If the entity was licensed the certificate may state in what construction occupation and (where relevant) class the licence was issued, and whether the licence was, or was not, suspended. A licence or certificate under this clause is evidence of the matters stated in it and a document that purports to be a licence or certificate under this clause is taken to be such document, unless it is proved otherwise.

Part 10 Advisory boards

Part 10 deals with the establishment and functions of advisory boards.

Clause 112 requires the registrar to establish an advisory board for a construction occupation. An advisory board may, but need not, relate to more than one construction occupation. The boards must be established within six months of the commencement of this clause.

Clause 113 requires an advisory board to consist of from seven to nine members. At least four of the members must be licensed in the construction occupation, or one of the construction occupations, for which the advisory board is established. Of the four advisory board members who are licensed in a construction occupation, not more than two may represent a body established to represent the interests of people working in the construction occupation or one of the construction occupations. At least one, but not more than three of the members must represent an educational institution, or an industry training body, relevant to the construction occupation. At least one of the advisory board members must be a lawyer. At least one of the members must be a community representative who is not licensed.

Under **Clause 114** the functions of an advisory board for a construction occupation are to advise the registrar about qualifications for the occupation, to help with investigations and disciplinary hearings for the construction occupation if asked by the registrar and to help develop and maintain codes of practice for the construction occupation if asked by the registrar.

Part 11 Complaints

Part 11 outlines the procedures to be followed when a complaint is received about a licensee or former licensee who provides a construction service.

Under **Clause 115** anyone who believes a licensee is contravening or a former licensee has contravened the Bill or an operational Act may complain to the registrar. **Clause 116** requires the complaint to be in writing and signed by the person making the complaint (the **complainant**). The complaint must include the complainant's name and address. The registrar may accept a complaint for consideration even if the complaint does not meet the requirements in Clause 116. If the registrar accepts for consideration a complaint that is not in writing, the registrar must require the complainant to put the complaint in writing unless there is a good reason for a written complaint not being provided.

Clause 117 enables a complaint to be withdrawn at any time by written notice to the registrar. If the complainant withdraws the complaint, the registrar need take no further action on the complaint, but may continue to act on the complaint if the registrar considers it appropriate. If the complaint is withdrawn the registrar need not report to the complainant under clause 121 (Action after investigating complaint) on the results of any action on the complaint.

Clause 118 enables the registrar to require a complainant to give the registrar further information about the complaint, or to verify all or part of the complaint by statutory declaration. If the registrar requires one of these actions, the registrar must give the complainant a reasonable period of time within which to do so, and may extend that period, whether before or after it ends. If the complainant does not do so the failure may, but need not, end action in relation to the complaint.

Clause 119 requires the registrar to take reasonable steps to investigate each complaint the registrar accepts for consideration. However, **Clause 120** stipulates that the registrar must not take further action on a complaint if satisfied that the complaint lacks substance, that the complaint is frivolous, vexatious or was not made in good faith, or that the complaint has been adequately dealt with. A note refers to another provision of the Bill concerning circumstances in which the registrar may take no further action.

After investigating a complaint, **Clause 121** requires the registrar to give a disciplinary notice to the licensee or former licensee who is the subject of the complaint if satisfied that a disciplinary ground exists. The registrar must advise the complainant in writing that the notice has been given. If the registrar is not satisfied that a disciplinary ground exists in relation to the complaint, the registrar must advise the complainant in writing that no further action will be taken. However, this does not prevent the registrar from taking further action on the complaint if, after this initial decision, the registrar determines that grounds exist for disciplinary action to be taken in relation to the complaint. A note explains that withdrawal of a complaint relieves the registrar of the obligation to advise the complainant.

Part 12 Miscellaneous

Clause 122 provides for applications to be made to the AAT for review of a reviewable decision. The Regulations may prescribe which decisions are **reviewable**

decisions. Regulation 44 has relevant provisions. If the registrar makes a reviewable decision, the registrar must give a written notice of the decision to each person affected by the decision. The notice must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

Clause 123 provides that a person who is, or has been, the registrar or a deputy registrar, an advisory board member, someone acting under the direction or authority of the registrar at an inquiry or a public servant providing administrative assistance at an inquiry is accorded certain protection. The person cannot be prosecuted in a civil proceeding in relation to loss, damage or injury of any kind to someone else because of an act done, or omitted, where it was done honestly in the exercise (or purported exercise) of a function under the Bill.

The dictionary of the Bill states that references to AS 3500 (National plumbing and drainage) apply to the standard as in force from time to time. **Clause 124** provides that this may be done without the text of the standard being published in the legislation registrar. This provision displaces an assumption of the Legislation Act. Australian Standards are subject to copyright and readily purchased at the Standards Shop in Canberra or over the Internet.

Clause 125 enables the Minister to determine fees for the Bill. A note refers to relevant provisions in the Legislation Act. A determination is a disallowable instrument and a note points out that under the Legislation Act it must therefore be notified and presented to the Legislative Assembly. **Clause 126** allows the registrar to approve forms for this Act, which are notifiable instruments. If the registrar approves a form for a purpose, the approved form must be used for that purpose. Notes to this clause refer to provisions of the Legislation Act on forms and notification.

Clause 127 enables the Executive to make regulations for the Bill and specifies the following matters:

- (a) licences; and
- (b) the keeping of the register, including the particulars that must or may be entered in the register; and
- (c) the supervision of licensees' activities; and
- (d) rectification orders; and
- (e) codes of practice.

The Clause specifies that the Regulations may create offences for contraventions of the Regulations and prescribe maximum penalties of not more than 10 penalty units for them.

Clause 127 allows the Regulations to adopt Australian Standards as in force from time to time without the text of the standard being published in the legislation registrar. This provision is intended to allow the ACT to adopt national standards at the same time as other jurisdictions without raising copyright questions and displaces an assumption of the Legislation Act that is explained in notes to the clause. Australian Standards are readily purchased at the Standards Shop in Canberra or over the Internet.

Part 13 Repeal and transitional provisions

Clause 128 defines *Building Act* for this part as the *Building Act 1972* as in force immediately before the commencement day and *repealed Act* as the *Construction Practitioners Registration Act 1998* as in force immediately before the commencement. **Commencement day** means the day on which clause 6 of this Bill commences.

Clause 129 provides that the Minister must review the first two years of operation of the Bill and present a report to the Legislative Assembly. This must be done within three years of the commencement day.

Clause 130 repeals the *Construction Practitioners Registration Act 1998* and *Construction Practitioners Registration Regulations 1998*.

Clause 131 deals with the time when licences under the superseded licensing scheme expire and provides that if a person is taken to be licensed under this Part because they were licensed or registered under other legislation, then their licences expire at the same time as they would have expired under the other legislation (unless the licence is cancelled earlier). **Clauses 132, 133, 134, 135 and 136** provide for the continuing validity of licences for building surveyors; electricians; plumbers, drainers and gasfitters; sprinkler fitters; and plumbing plan certifiers respectively. For electricians the provision applies to permits as well as licences and provides for the adoption of current national terminology. Sprinkler fitters and holders of an electrician's licence, grade B may currently carry out some of the work that is within the scope of water supply plumbers and holders of an electrician's licence, grade A respectively. These are no longer recognised as separate licences but holders of current licences in these categories are taken to hold a licence in a corresponding wider category under the Bill but are limited by conditions to their present scope.

Clauses 137 and 138 provides that if a licence suspension under the *repealed Act* or the *Electricity Safety Act 1971* was in effect before commencement day and had not ended then it continues under the Bill and ends at the same time as it would have ended under the repealed provisions. A right of appeal against a suspension becomes a right under the Bill. For electricians this provision applies to permits under the superseded licensing scheme as well as to licences.

Clause 139 specifies that in relation to clause 34 (Intention to make rectification order), a reference to a licensee or former licensee includes a reference to a person who was registered under the repealed *Construction Practitioners Registration Act* and a construction service includes a construction service provided before the commencement of this part.

Clause 140 provides for applications for registration under the repealed *Construction Practitioners Registration Act* immediately before commencement of the Bill to be taken as applications for licensing under the Bill. If the new requirements include something that was not needed in the original application, the applicant may be asked for further information. If the application is for a category or class that no longer exists, the applicant may be granted a corresponding licence if the registrar is satisfied that it is appropriate to do so.

Clause 141 provides for a similar arrangement in relation to builders licences. **Clause 142** provides that for ongoing applications, applicants for builders licences need not meet changed qualification requirements provided for under the Bill.

Clause 143 provides that persons who held a builders licence under the repealed *Building Act 1972* immediately before commencement of the Bill are taken to hold a licence under the Bill but cannot have the licence renewed.

Clause 144 provides for ongoing applications for licences or permits under the repealed provisions of the Electricity Safety Act to be taken as applications for licensing under the Bill. If the new requirements include something that was not needed in the original application, the applicant may be asked for further information. The names of licences have changed but applicants may be granted a corresponding licence according to the scheme applied to continued licences and permits by clause 133.

Clause 145 provides for ongoing applications for licences or certificates of competency under the repealed *Plumbers, Drainers and Gasfitters Board Act 1982* to be taken as applications for licensing under the Bill. If the new requirements include something that was not needed in the original application, the applicant may be asked for further information. The names of licences have changed and some categories no longer exist but applicants may be granted a corresponding licence, if the registrar is satisfied that it is appropriate to do so.

Clause 146 provides that contraventions that occurred before commencement day may be taken into account under the Bill in issuing rectification orders or authorising a licensee to take action as an alternative to issuing a rectification order.

Clause 147 makes the new Construction Occupations Licensing Regulations 2003 set out in Schedule 1 to the Bill. They commence when this clause of the Bill does but are considered to have been made under clause 127 (Regulation-making power) and can be changed like other regulations.

Clause 148 enables the Regulations to deal with savings or transitional matters related to the enactment of the Construction Occupations Legislation Amendment Bill 2003 or this Bill. The Regulations may modify the operation of this Bill to make provision with respect to any matter that is not, or not adequately, dealt with in this Bill or the Construction Occupations Legislation Amendment Bill.

Clause 149 stipulates that Part 13 expires one year after the day it commences, apart from clause 129 (Review of Act), which expires after three and a half years.

Schedule 1 – New Construction Occupations (Licensing) regulations

Outline

The Construction Occupations (Licensing) Regulations 2003 contain many of the administrative requirements for the effective operation of the Bill.

Part 1 of the Regulations contains administrative and explanatory provisions for the operation of the Regulations. Part 2 contains requirement for licence applications and information to be contained on licences. Part 3 covers details to be included in the new construction occupations register, including the availability of the register for inspection, the details to be kept, and the length of time for which licences can be issued.

The eligibility requirements to be licensed, including provisions for skills assessment and stipulations about the issue of licences to corporations and partnerships and about nominees, are detailed in Part 4. Provisions relating to licence conditions and endorsements appear in Part 5. This includes provisions about information that licensees must report to the registrar, the effect of bankruptcy on licences, and the licences that authorise the provision of construction services only as an employee. There are also miscellaneous provisions covering the return of licences that have been the subject of conditions or endorsement, the endorsements that can be attached to licences, the replacement of licences, the details about completed disciplinary actions that may be published and construction services that may be provided without a licence.

Part 6 of the Regulations specifies the classes of licence for each construction occupation, and refers to Schedule 1 of the Regulations, which provides detail of the construction work that can be done under each class of licence in each construction occupation. Part 7 contains miscellaneous requirements including the identification of the “short description” of demerit disciplinary grounds, the details to be reported to the Minister about disciplinary actions undertaken in a financial year and the decisions that are reviewable. Part 8 deals with transitional provisions in relation to the superseded licensing scheme and the commencement of the new legislation.

Schedule 1 to the Regulations specifies the classes of construction occupations licence and their functions, Schedule 2 to the Regulations lists demerit disciplinary grounds for each construction occupation and for all occupations under section 53 (1) (a) of the Bill and Schedule 3 to the Regulations lists other general demerit disciplinary grounds that apply to all construction occupations.

DETAILS

Part 1 Preliminary

Part 1 contains regulations that are administrative in nature. **Regulation 1** provides for the name of the Regulations. **Regulation 2** explains that the dictionary that appears at the end of the Regulations is a part of the Regulations, and provides notes on the structure of the definitions and how they apply. **Regulation 3** explains that the “notes” that appear in the Regulations are guides to interpretation but not part of the Regulations.

Regulation 4 states that provisions in other legislation apply to offences committed under these regulations. Notes in regulation 4 explain the application of the *Criminal Code* and the Legislation Act to the Regulations.

Part 2 Licences

Regulation 5 sets out what must be included in an application for a licence. Details include the applicant's name and contact information, the construction occupation and class of occupation and any endorsements being applied for. All applicants must provide evidence that they are eligible to be licensed in any occupation or class of occupation or with any endorsement for which they are applying.

Other mandatory details include any relevant previous licences held, information on any convictions or finding of guilt for any offence involving fraud, dishonesty or violence, punishable by imprisonment for one year or more (subject to the Spent Convictions Act, as a note explains) and, if the applicant has been punished, details of each conviction or finding. The applicant's access to financial resources adequate to complete any work that will be authorised under the licence must also be identified in the application.

Additional information on insurance coverage is required if the application is for a licence as building surveyor or plumbing plan certifier.

If the applicant is an individual additional details are the date of birth, residential address and, for employee building surveyor licences, the name of the employer or proposed employer.

If the applicant is a partnership additional business details include proof of the existence of the partnership, the name of each partner; and if a partner is a corporation, the partner's ACN. Contact details for each nominee are also required. Similar details are required where the applicant is a corporation.

Regulation 6 outlines additional information that will be included on a licence issued under the Bill. The information includes the period of the licence for each construction occupation and class, the names of the partners for a partnership licence, any endorsement on the licence and whether the licence is subject to conditions and, if it is, the construction occupation or class of construction occupation to which the conditions apply.

Licences are small plastic rectangles with limited space for information. The conditions can be either specified on the licence or if necessary indicated, with the details of the conditions being available on the register.

Where the licensee is a partnership the name of each partner will be included and if a partner is a corporation, the corporation's ACN. Where the licensee is a corporation the licence will include its ACN.

Regulation 7 specifies that the normal maximum term of a licence in the construction occupations of builder, electrician, plumber, drainer, and gasfitter is three years. An applicant may apply for and obtain a licence which is only for a one year period.

The professional indemnity insurance required by some construction occupations is issued year by year. **Regulation 8** specifies that the normal maximum term of a licence for the construction occupations of building surveyor or plumbing plan certifier is one year. If an applicant has the insurance required under these regulations for a

period less than one year, the licence can only be issued for the same period as the insurance.

Part 3 Register

Regulation 9 specifies the details that the Registrar under the Bill is required to ensure are on the register of licensees. This includes the information included on a licensee's licence, the licensee's contact details and, where insurance is required for the licence class, their insurer, and details for the nominees of a corporation or partnership. Any suspension of a licence and the reasons for that suspension, and details of any disciplinary action taken against the licensee are also included. This statement does not prevent the registrar from including other information, including information about former licensees. Regulations 46 and 47 contain transitional provisions by which licence suspensions (and the suspension of authorisations with other names) and disciplinary actions under the superseded licensing scheme may be included in the register.

Regulation 10 enables the registrar to correct a mistake, error or omission in the register, or alter or remove an inaccurate entry.

Part 4 General eligibility requirements

Eligibility to be licensed

There are circumstances where a person, corporation or partnership is not eligible to be licensed. **Regulation 11** allows an entity not to be licensed if the entity is licensed in another occupation or class of occupation, that licence is suspended and the registrar is satisfied that, because of the grounds for the suspension, it is not appropriate for the entity to be licensed in the occupation or class of occupation. A note refers to a provision in the Bill that allows the renewal of a suspended licence.

Regulation 12 specifies that an individual is not eligible to be licensed if the licence would allow the applicant to provide a construction service without supervision and the individual has been found guilty of an offence that involves fraud or dishonesty and is punishable by imprisonment for at least one year.

Regulation 13 enables the registrar to declare, in writing, the qualifications that are necessary for an individual to be eligible for a licence. The registrar must first consult the relevant advisory body. A transitional provision is set out in Regulation 48. The qualifications must be made publicly available on the legislation register.

There will be circumstances where the registrar is not satisfied that a person has the necessary qualifications to be eligible for a licence. The registrar may then require the applicant to undertake an assessment to find out whether the applicant has a skill reasonably necessary to satisfactorily exercise the functions of the class of licence for which the applicant applied. **Regulation 14** specifies that the assessment can be one or more of assessment by a third party, examination, consideration of a record of the applicant's experience and the undertaking of testing. The registrar must ensure that an appropriately qualified person or a registered training organisation, such as an Institute of Technology, undertakes some kinds of assessment. The applicant is required to pay any reasonable costs incurred in the assessment, and if they do not pay those costs they are not eligible to be licensed.

There are certain construction occupation and classes within those occupations, where a corporation or a partnership is eligible to be licensed. **Regulation 15** lists those occupations and classes as builder, building surveyor, drainer, the electrical contractor class of electrician, gasfitter and plumber, . For a corporation or partnership to be eligible to be licensed the corporation or partnership must have a nominee who is licensed in the occupation or class. If a partner in a partnership has been found guilty, whether in the ACT or somewhere else, of an offence involving fraud, dishonesty or violence punishable by imprisonment for at least one year, the partnership is not eligible to be licensed.

Regulation 16 specifies that an individual is only eligible to be licensed in the class of owner-builder if they own the land where the building work is to be undertaken, have a building approval in place under the *Building Act 2003*, and have not been granted an owner-builder licence in relation to other land in the previous five years.

For the construction occupation of building surveyor, insurance requirements must be met to be eligible for a licence. **Regulation 17** specifies that the applicant must have professional indemnity insurance that provides indemnity against claims for breach of professional duty as a building certifier. The indemnity must include a minimum limit of \$1 000 000 for any one claim, and a minimum limit of indemnity of \$1 000 000 for the total of all claims against the insured made in the period of cover. A minimum limit of indemnity for the costs and expenses of defending or settling a claim of 20% of the limit of indemnity for the claim is also required. An applicant for an employee building surveyor's licence may be covered by the employer's insurance.

Regulation 18 has similar requirements to those outlined in **Regulation 17**, but specifies the insurance requirements for plumbing plan certifiers. A plumbing plan certifier is required to have professional indemnity insurance that provides indemnity against claims for breach of professional duty as a certifier, and a minimum limit of liability of \$1 000 000 for each period of insurance.

Nominees

Where a corporation or partnership is able to apply for a licence, they are required to have a nominee, who is responsible for the construction work that can be undertaken with the corporation or partnership's licence. **Regulation 19** stipulates that the nominee must be an individual and, where the entity is a corporation, the nominee must be either a director or an employee of the corporation. In the case of a partnership, the nominee must be a partner or else the nominee of a corporation that is a partner. In both circumstances, the nominee must be licensed in the same construction occupation as the entity (or as the entity is applying to be licensed in) and be able to exercise the functions of a nominee on a daily basis. If the construction occupation is divided into classes, the nominee must be licensed in the same class, or in a class that allows the exercising of the same functions as the class, that the entity is licensed in (or applying to be licensed in) or there must be another nominee so licensed. A note refers to the functions of nominees under the Bill.

Part 5 Licence conditions and endorsements

Licence conditions on licences

Part 5 outlines standard conditions that apply to licences and the capacity to endorse certain licences to allow a construction practitioner to carry out additional work.

Regulation 20 clarifies that a licence is subject to the conditions in division 5.1 of the Regulations. A note points out that this is in addition to any conditions that the registrar may impose under clause 21 of the Bill.

If a licensee changes any details that are recorded in the register, **Regulation 21** requires the licensee to inform the registrar in writing of the changes within two weeks. Under **Regulation 22**, where the licensee is a corporation, they must notify the registrar in writing if a person becomes or stops being a director or nominee within two weeks of the change occurring. **Regulation 23** applies to partnership licences, and requires the licensee to advise the registrar in writing if a person becomes or stops being a partner or nominee within two weeks of the change occurring.

Under **Regulation 24**, when an individual licensee becomes bankrupt or applies to take the benefit of any law for the relief of insolvent debtors, the licensee can only provide a construction service as the nominee of a partnership or company. The intention is to provide a measure of public protection from financially unviable licensees whilst allowing such licensees to supervise work funded by partnerships or companies.

Regulations 25-28 specify that a condition of a licence in the licence classes of operative drainer, journeyman gasfitter, journeyman plumber and for building surveyors licensed in the classes of principal building surveyor employee and general building surveyor employee is that the licensee only provides a construction service as an employee. In addition **Regulation 28** requires the employer of building surveyors licensed in the classes of principal building surveyor employee and general building surveyor employee to hold appropriate insurance as set out in regulation 17 (Eligibility to be building surveyor).

Miscellaneous

If the registrar varies a condition on a licence or endorses a licence **Regulation 29** enables the registrar to require a licensee to return the licence to the registrar so that the registrar can include the variation in the licence. A note refers to a provision in the Regulations under which not all details of conditions need be recorded on the licence. If the registrar requires the return of the licence, the licensee must comply with the request, and the registrar is required to return the licence as soon as it is changed, unless the licence is suspended or cancelled. Failure to return a licence is an offence of strict liability, which narrows the range of defences available. A person not considered qualified to work in certain circumstances may if allowed to present themselves as qualified provide substandard construction services, with serious potential consequences for future owners and users of buildings and the public.

There are circumstances where registrar may, on application, endorse a licence to enable the licensee to do construction work not otherwise allowed under that licence.

Regulation 30 provides for the endorsement of a builder licence for specialist building work, as defined in the *Building Bill 2003*. The registrar must be satisfied that the applicant can competently undertake the work before issuing an endorsement. The registrar is able to place conditions on the endorsement.

Regulation 31 enables the registrar to endorse a plumber's licence to test backflow prevention devices and produce test reports. As with Regulation 30, the registrar must be satisfied that the applicant can competently undertake the work before issuing an endorsement.

If a licensed person has lost their licence, or it has been stolen, destroyed or damaged, **Regulation 32** enables the registrar to issue a replacement licence. Notes explain that a fee may be charged for the issue of the replacement licence and the use of an approved form of application required.

Regulation 33 identifies the information that may be published in a notice about completed disciplinary action. It includes particulars such as names (including the ACN of a corporation) and addresses that will allow the public to identify the licensee (or former licensee); particulars of the *licence* and the construction occupation or occupation class affected; particulars of the disciplinary action taken; details that will allow the public to identify the time of the decision to take disciplinary action, the period to which action applies, and, if a fine is imposed, the amount of fine; and the reason for the action. Under regulation 50 a licence includes for transitional purposes an authorisation with a different name under the superseded licensing scheme.

Regulation 34 lists construction services that can be provided by an individual without a licence if done under the supervision of a licensee who is an individual, or the nominee of a licensed corporation or partnership authorised to provide the service. They are building services, where most occupations do not require a licence, and activities undertaken under supervision as practical experience in connection with an *accredited course* that the person is undertaking as a *trainee* in construction services where a licence is normally necessary: electrical wiring, gasfitting, plumbing, or sanitary drainage services. Accredited courses are defined with reference to the legislation that deals with technical education and trainees may be either "new apprentices" or final year high-school students undertaking work experience under formal arrangements.

Part 6 Construction occupation classes

Regulations 35-41 specify those construction occupations that are divided into classes, and refer to the appropriate part of schedule 1 of the Regulations for each class. The construction occupations of builder, building surveyor, drainer, electrician, gasfitter, and plumber are listed. Plumbing plan certifier is a construction occupation but is not divided into classes and is therefore not included.

Sprinkler fitters and holders of an electrician's licence, grade B may currently carry out some of the work that is within the scope of water supply plumbers and holders of an electrician's licence, grade A respectively. There is no directly equivalent occupation classes under the Regulations but holders of current licences are eligible

for licences in the corresponding wider category limited by conditions to their present scope.

Part 7 Miscellaneous

Regulation 42 states that Schedule 2 of the Regulations contains the short description for a disciplinary ground of contravening the Act or the operational Acts under clause 53 (1) (a) of the Bill, and the number of demerit points that attached to each breach, while Schedule 3 deals with disciplinary grounds that are not covered by clause 53 (1) (a) of the Bill, and the corresponding demerit points.

Regulation 43 sets out the details that the registrar must provide in a report to the Minister at the end of each financial year, about disciplinary action that has been taken against licensed persons. The report must detail the name of a licensee or former licensee, what contravention resulted in disciplinary action, the licence held, what disciplinary action was taken, and the result of any review of the decision to take disciplinary action.

Regulation 44 lists the decisions under the Bill that are reviewable by the Administrative Appeals Tribunal, and includes matters relating to the issue or refusal to issue a licence, licence conditions and endorsements, refusal to provide a licence except for the maximum term of that licence, and actions in relation to nominees, licence suspension and disciplinary action and rectification orders.

Part 8 Transitional

Regulation 45 defines *repealed Act* as a short form of reference to the repealed Construction Practitioners Registration Act for use in this part of the Regulations.

Regulation 46 provides for records of licence suspensions under regulation 9 (1) (g) to include licences and authorisations with other names issued under the superseded licensing scheme. **Regulation 47** provides for records of disciplinary action under regulation 9 (1) (h) to include actions taken under the repealed Construction Practitioners Registration Act.

Regulation 48 requires the registrar to consult with advisory boards about qualifications within one year of the regulation commencing. However it entitles the registrar to initially declare qualifications beforehand without such consultation. The intention is to permit qualifications to be in force before, and while, advisory boards are formed and consulted.

Regulation 49 ensures that owner-builder licences issued under the repealed *Building Act 1972* continue in force.

Various terms are used for authorisations to do construction work under the superseded licensing scheme. **Regulation 50** states that references to licences in Regulation 33 (Matters that may be published – Act, s 62 (1)) include registration under the repealed *Construction Practitioners Registration Act 1998*, a licence, permit or registration under an operational Act and a licence or certificate of competency under the repealed *Plumbers, Drainers and Gasfitters Board Act 1982*. The effect is to permit the publication under the new licensing scheme of information about

disciplinary action brought under transitional arrangements against licensees who held licences under the superseded licensing scheme but not under the new scheme.

Schedule 1 Classes of construction occupation licence and functions

Schedule 1, as provided for in Part 6 of the Regulations, identifies each construction occupation that has been divided into classes of licence. It names each licence class and, in column 3 outlines what construction work is allowed under that licence class.

Part 1.1 Builder

column 1 item	column 2 construction occupation class	column 3 construction work
1	class A	building work but not specialist building work
2	class B	building work, but not specialist building work, in relation to a building with up to 3 storeys
3	class C	building work, but not specialist building work, in relation to a class 1, class 2 or class 10a building with up to 2 storeys
4	class D	non-structural basic building work, but not specialist building work
5	owner-builder	Building work, but not specialist building work, in relation to a class 1, class 2 or class 10a building that is, or is to be, the licensee's main home or ancillary to it

Part 1.2 Building surveyor

1	principal building surveyor	building certification work
2	principal building surveyor employee	building certification work as an employee
3	general building surveyor	building certification work in relation to a building up to 3 storeys and that has a floor area up to 2 000m ²
4	general building surveyor employee	building certification work in relation to a building up to 3 storeys and that has a floor area up to 2 000m ² as an employee
5	principal government building surveyor	building certification work
6	government building surveyor	building certification work in relation to a building up to 3 storeys and that has a floor area up to 2 000m ²

Part 1.3 Drainer

1	advanced sanitary drainer	Sanitary drainage work without supervision
2	journeyperson drainer	sanitary drainage work under supervision of licensee with advanced sanitary drainer's licence
3	operative drainer	sanitary drainage work under supervision of licensee with advanced sanitary drainer's licence

column 1 item	column 2 construction occupation class	column 3 construction work
Part 1.4 Electrician		
1	electrical contractor	1 electrical wiring work without supervision 2 supervision of electrical wiring work
2	unrestricted	1 electrical wiring work without supervision 2 supervision of electrical wiring work
3	electrotechnology systems permit	1 electrical wiring work under supervision 2 incidental electrical work
4	restricted— electrotechnology systems assembly and servicing electrical fitting	electrotechnology assembly and servicing incidental to electrical wiring work in relation to electrical fitting disconnection and reconnection work
5	restricted— electrotechnology systems mechanical fitting	electrotechnology systems incidental to electrical wiring work in relation to mechanical fitting disconnection and reconnection work
6	restricted— electrotechnology systems plumbing and gas fitting	electrotechnology systems incidental to electrical wiring work in relation to plumbing and gasfitting disconnection and reconnection work
7	restricted— electrotechnology systems refrigeration and air conditioning	incidental electrical wiring work in relation to refrigeration and airconditioning disconnection and reconnection work
8	restricted— electrotechnology systems type B gas appliances	incidental electrical wiring work in relation to disconnection and reconnection of type B gas appliances
9	Electrotechnology systems restricted permit	incidental electrical work under the supervision of a licensee with a licence in 1 or more of the following classes: (a) restricted—electrotechnology systems assembly and servicing electrical fitting (b) restricted—electrotechnology systems mechanical fitting (c) restricted—electrotechnology systems plumbing and gas fitting (d) restricted— electrotechnology systems refrigeration and air conditioning
Part 1.5 Gasfitters		
1	advanced	gasfitting work, other than LP gas (liquid phase) installation, without supervision
2	general	1 gasfitting work for pressures below 21kPa without supervision 2 gasfitting work for pressures above 21kPa under the supervision of an advanced gasfitter

column 1 item	column 2 construction occupation class	column 3 construction work
3	journeyperson gasfitter	gasfitting work under the general supervision of a licensee with an advanced gasfitter's licence or an unrestricted licence
4	LPG gasfitter (vapour phase)	LP gas (vapour phase) installation without supervision
5	LPG gasfitter (liquid phase)	LP gas (liquid phase) installation without supervision
6	restricted automotive— LPG	LP gas fuel installation on motor vehicles
7	restricted automotive— NGV	NGV fuel installation on motor vehicles
8	restricted automotive— LPG forklifts	gasfitting for LPG forklifts
9	restricted automotive— NGV forklifts	gasfitting for NGV forklifts

Part 1.6 Plumbers

1	sanitary plumber	sanitary plumbing work without supervision
2	water supply plumber	water supply plumbing work, including fire sprinkler work, without supervision
3	journeyperson plumber	sanitary plumbing work under supervision of a licensee with a sanitary plumber's licence

Schedule 2 Demerit disciplinary grounds

Schedule 2 to the Regulations, as provided for in regulation 42, lists each demerit disciplinary ground under clause 53 (1)(a) of the Act, which deals with contravening the Bill or an operational Act (including codes and standards brought into effect by them). There are separate groups of grounds for builders, building surveyors, drainers, electricians, gasfitters, plumbers, and plumbing plan certifiers and a group of grounds that apply to all licences. Column 1 gives an item number to each demerit, column 2 provides a detailed description of the demerit disciplinary ground, column 3 provides a short description and column 4 specifies the number of demerit points that attach to the item.

Part 2.1 Builders licence demerit disciplinary grounds under Act, s 53 (1) (a)

column 1 item	column 2 demerit disciplinary ground	column 3 short description	column 4 demerit points
2.1.1	fail to comply with building code, vol 1, cl BP1.1 or vol 2, cl P2.1 in that building did not resist actions reasonably subject to—local damage not minimised as demonstrated by deformation in single element of brickwork, blockwork, or stonework, laid in mortar causing crack or split in joint if— (a) crack or split wider than 3mm; or (b) face of element on either side of crack or split out of alignment with opposite face across crack or joint by more than 3mm	creation of defective single masonry element—cracked or split more than 3mm	1
2.1.2	fail to comply with building code, vol 1, cl BP1.1 or vol 2, cl P2.1 in that building did not resist actions reasonably subject to—local damage not minimised as demonstrated by deformation in single element concrete floor or structural concrete element causing crack or split in joint if— (a) crack or split wider than 5mm; or (b) face of element on either side of crack or split out of alignment with opposite face across crack or joint by more than 5mm	creation of defective single concrete element—cracked or split more than 5mm	1
2.1.3	fail to comply with building code, vol 1, cl BP1.1 or vol 2, cl P2.1 in that building did not resist actions reasonably subject to—local damage not minimised as demonstrated by deformation in wall, wall render, wall lining, wall tiling, ceiling lining or cornice causing crack or split in joint	creation of defective wall or wall render, lining or tiling, or ceiling lining or cornice—cracked or split	1
2.1.4	fail to comply with building code, vol 1, cl BP1.1 or vol 2, cl P2.1 in that building did not resist actions reasonably subject to—local damage not minimised as demonstrated by possibility of instability or collapse of primary building element susceptible to termite attack because not provided with code-compliant termite risk management system	failure to protect primary building element with compliant termite management system	2
2.1.5	fail to comply with building code, vol 1, cl FP1.2, FP1.3 (b), FP1.4, FP1.5, FP1.6 or vol 2, cl P2.1(b), P2.2.1(c)(ii), P2.2.2, P2.2.3—surface water, water or dampness could occur in building other than under code	failure to protect a building from water or dampness	3
2.1.6	fail to comply with building code, vol 1, cl FP1.1 or vol 2, cl P2.2.1(a)—surface water collected or concentrated by building not disposed of in code-compliant way that avoids damage or nuisance to another property, or likelihood of damage or nuisance	creation of building with defective surface water collection or concentration disposal that damaged or caused nuisance or likelihood of either to other property	2
2.1.7	fail to comply with building code, vol 1, cl FP1.3 or vol 2, cl P2.2.1(c)—drainage system for disposal of surface water did not, in code-compliant way— (a) carry water to appropriate outfall; or (b) avoid entry of water to building; or (c) avoid water damaging building	creation of building with defective drainage system— failure to carry water to appropriate outfall, avoid entry of water to building or avoid water damaging building	3

column 1 item	column 2 demerit disciplinary ground	column 3 short description	column 4 demerit points
2.1.8	fail to comply with building code, vol 1, cl EP2.1 or vol 2, cl P2.3.2—building without code-compliant automatic warning on smoke detection	creation of building without effective smoke alarm	3
2.1.9	fail to comply with building code, vol 1, cl FP1.7 or vol 2, cl P2.4.1—water not stopped from penetrating behind fittings, linings or concealed spaces of sanitary facilities, bathrooms, laundries and other wet area facilities	creation of building with defective wet area waterproofing or water containment	3
2.1.10	fail to comply with building code, vol 1, cl FP3.1 or vol 2, cl P2.4.2—height of room or other space more than 50mm less than code requires	creation of building with ceiling height more than 50mm too low	3
2.1.11	fail to comply with building code, vol 2, cl ACT 2.1—asbestos removed from building other than in code-compliant way	unsafe asbestos handling or disposal	3
2.1.12	fail to comply with building code, vol 1, cl FP5.1 to FP5.4 or vol 2, cl P2.4.6—floor, wall or floor or wall penetration do not comply with code sound transmission and insulation requirements	creation of building with defective sound transmission or insulation arrangements	2
2.1.13	fail to comply with building code, vol 1, cl DP2(c)(v) or vol 2, cl P2.5.1(b)(iii)—geometry of stairway risers or goings do not satisfy code safe passage requirements	creation of unsafe step or stairway	3
2.1.14	fail to comply with building code, vol 1, cl DP3 or vol 2, cl P2.5.2—barrier required under code to prevent people falling not provided	creation of building with defective or no safety barrier	3
2.1.15	fail to comply with building code, vol 1, cl GP1.2 or vol 2, cl P2.5.3—swimming pool over 300mm deep without code compliant safety barrier	creation of swimming pool with defective or no safety barrier	3
2.1.16	fail to comply with building code, vol 1, cl CP2 or vol 2, cl P2.3.1—building with element that does not comply with code to avoid spread of fire to exit, sole occupancy unit or public area or between buildings or in building	creation of building with defective or no fire spread avoidance measures	2
2.1.17	fail to comply with <i>Building Act 2003</i> , s 42 (1) (c)—mortar joint in mortar-jointed masonry element not between 8mm and 12mm wide or bed joint not horizontal	creation of defective masonry joint—mortar joint not between 8mm and 12mm wide or bed joint not horizontal	1
2.1.18	fail to comply with <i>Building Act 2003</i> , s 42 (1) (c)—beam, doorway, window, wall, column, post or truss erected out of plumb	creation of out of plumb beam, doorway, window, wall, column, post or truss	1
2.1.19	fail to comply with <i>Building Act 2003</i> , s 42 (1) (c)—floor, ceiling, beam or sill erected out of horizontal	creation of out of horizontal floor, ceiling, beam or sill	1

column 1 item	column 2 demerit disciplinary ground	column 3 short description	column 4 demerit points
2.1.20	fail to comply with <i>Building Act 2003</i> , s 42 (1) (c)— floor, ceiling or beam erected so surface not flat	creation of floor, ceiling or beam without flat surface	1
2.1.21	fail to comply with <i>Building Act 2003</i> , s 42 (1) (d)— building erected more than 100mm but less than 300mm away from position relative to boundaries indicated on approved plans	failure to comply with building siting on approved plan by more than 100mm but less than 300mm	2
2.1.22	fail to comply with <i>Building Act 2003</i> , s 42 (1) (d)— building erected 300mm or more away from position relative to boundaries indicated on approved plans	failure to comply with building siting on approved plan by 300mm or more	3
2.1.23	fail to comply with <i>Building Act 2003</i> , s 42 (1) (d)— part of floor erected more than 100mm higher or lower than level indicated on approved plans	failure to comply with floor level on approved plan by more than 100mm	2
2.1.24	fail to comply with <i>Building Act 2003</i> , s 42 (1) (d)— top of building erected more than 300mm higher than height indicated on approved plans	failure to comply with building height requirements of approved plan by more than 300mm	2
2.1.25	fail to comply with <i>Building Act 2003</i> , s 42 (1) (d)— location of structural element, wall, window or door, relative to building erected more than 100mm away from position on building indicated on approved plans or in position where plans indicate other element to be erected	failure to comply with set out requirements of approved plan for structural element, wall, window or door by more than 100mm, or inclusion of unplanned structural element, wall, window or door	1
2.1.26	fail to comply with <i>Building Act 2003</i> , s 42 (1) (d)— lineal dimensions of window, door or doorway erected more than 100mm larger or smaller than lineal dimension of window, door or doorway indicated on approved plans	failure to comply with dimensional requirements of approved plan for window, door or doorway by more than 100mm	1
2.1.27	fail to comply with <i>Building Act 2003</i> , s 42 (1) (d)— beam, doorway, window, wall, column, post or truss in approved plan not erected	failure to include significant building element from approved plan	2
2.1.28	fail to comply with <i>Building Act 2003</i> , s 42 (1) (e)— carried out building work when not builder in commencement notice and not under supervision of builder in notice	carrying out building work when not in commencement notice or supervised by notice builder	2
2.1.29	fail to comply with <i>Building Act 2003</i> , s 43 (2)— proceeded with building work above damp-course level although certifier has not received required document or is not satisfied that position of building or level of all floors comply with approved plan and any condition	failure to provide survey plan or document or comply with approved plan or condition before building above damp-course	2

column 1 item	column 2 demerit disciplinary ground	column 3 short description	column 4 demerit points
2.1.30	fail to comply with <i>Building Act 2003</i> , s 43 (3)—proceeded beyond stage of building work without notifying certifier or without certifier's written permission to proceed	failure to notify certifier about reaching inspection stage or obtain written permission before proceeding	2
2.1.31	fail to comply with <i>Building Act 2003</i> , s 64—did not comply with stop notice	failure to comply with stop notice	2
2.1.32	fail to comply with <i>Building Act 2003</i> , s 64—did not comply with notice to produce survey plan	failure to comply with notice to provide survey plan	2

Part 2.2 Building surveyors licence demerit disciplinary grounds under Act, s 53 (1) (a)

2.2.1	fail to comply with <i>Building Act 2003</i> , s 24, s 28 (5) or s 37 (5)—certifier failed to give registrar required notice	failure to notify registrar as required under <i>Building Act 2003</i>	1
2.2.2	fail to comply with <i>Building Act 2003</i> , s 28—certifier failed to issue building approval when should have, or issued building approval when no grounds to issue	failure to issue required building approval, or issue of unauthorised building approval	2
2.2.3	fail to comply with <i>Building Act 2003</i> , s 28 (3) or (4)—certifier issued building approval that was not, or not entirely— (a) marked on, attached to, or partly marked on and partly attached to, plans in relation to which approval was issued; or (b) marked on plans and certifier did not indicate on plans that approval, or part of approval, in separate document	failure to mark, attach or annotate building approval required detail on approved plan	1
2.2.4	fail to comply with <i>Building Act 2003</i> , s 30—certifier issued building approval that allowed building work that would contravene law because of external design or siting of building	issuing improper building approval—building work would contravene law because of external design or siting	3
2.2.5	fail to comply with <i>Building Act 2003</i> , s 37 (4)—certifier failed to issue building commencement notice as required	failure to issue building commencement notice as required	2
2.2.6	fail to comply with <i>Building Act 2003</i> , s 44 (1)—received notice that licensee reached stage of building work but did not inspect the building work as soon as practicable	failure to do required inspection as soon as practicable after receiving notification about it	2
2.2.7	fail to comply with <i>Building Act 2003</i> , s 44 (2)—certifier satisfied that building work not compliant with Building Act, s 37, but did not give licensee in charge of building work reasonable, appropriate, written directions for compliance	failure to give directions about how to resolve noncompliant building work found during required inspection	2

column 1 item	column 2 demerit disciplinary ground	column 3 short description	column 4 demerit points
2.2.8	fail to comply with <i>Building Act 2003</i> , s 44 (3)—building work complied with Building Act, s 42, but certifier did not certify compliant or give certificate of compliance to licensee in charge of work	failure to give certificate of compliance after finding compliant work during required inspection	2
2.2.9	fail to comply with <i>Building Act 2003</i> , s 50 (1)—certifier failed to notify registrar of contravention of Building Act as soon as practicable after becoming aware of contravention	failure to notify registrar as soon as practicable of known contravention of <i>Building Act 2003</i>	2

Part 2.3 Drainers licence demerit disciplinary grounds under Act, s 53 (1) (a)

2.3.1	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 6 (1), performance requirement under AS 3500.2.1, cl 7.2 (a)—sanitary drainage system using water-borne waste disposal designed or constructed so that does not carry sewage from sanitary plumbing system to approved disposal system	creation of sanitary drainage system that does not carry sewage from sanitary plumbing system to approved disposal system	1
2.3.2	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 6 (1), performance requirement under AS 3500.2.1, cl 7.2 (b)—sanitary drainage system using water-borne waste disposal designed or constructed so that supported, jointed or protected in way that failed to avoid likelihood of blockages and leakages	creation of sanitary drainage system with likelihood of blockages or leakages	1
2.3.3	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 6 (1), performance requirement under AS 3500.2.1, cl 7.2 (c)—sanitary drainage system using water-borne waste disposal designed or constructed so that supported, jointed or protected in way that failed to avoid likelihood of penetration of roots or entry of ground water	creation of sanitary drainage system with likelihood of penetration of roots or entry of ground water	1
2.3.4	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 6 (1), performance requirement under AS 3500.2.1, cl 7.2 (d)—sanitary drainage system using water-borne waste disposal designed or constructed in way that failed to provide access for maintenance and for clearing blockages	creation of sanitary drainage system without access for maintenance or clearing blockages	1
2.3.5	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 6 (1), performance requirement under AS 3500.2.1, cl 7.2 (e)—sanitary drainage system using water-borne waste disposal designed or constructed without ventilation adequate to avoid foul air and gases accumulating in the sanitary drainage system	creation of sanitary drainage system without adequate ventilation of foul air and gases	1
2.3.6	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 6 (1), performance requirement under AS 3500.2.1, cl 7.2 (f)—sanitary drainage system using water-borne waste disposal designed or constructed in way that failed to avoid likelihood of damage from superimposed loads or normal ground movement	creation of sanitary drainage system with likelihood of damage from loads or ground movement	1

column 1 item	column 2 demerit disciplinary ground	column 3 short description	column 4 demerit points
2.3.7	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 6 (1), performance requirement under AS 3500.2.1, cl 7.2 (g)—sanitary drainage system using water-borne waste disposal designed or constructed in way that failed to protect system from entry of contaminants	creation of sanitary drainage system without protection from contamination	1
2.3.8	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 6 (1), performance requirement under AS 3500.2.1, cl 7.2 (h)—sanitary drainage system using water-borne waste disposal designed or constructed in way that failed to prevent stormwater entering sewerage system	creation of sanitary drainage system that allowed entry of stormwater	1
2.3.9	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 6 (1), performance requirement under AS 3500.2.1, cl 7.2 (i) or (j)—sanitary drainage system using water-borne waste disposal designed or constructed in way that failed to avoid likelihood of damage to existing building or sitework or sewerage system	creation of sanitary drainage system with likelihood of damaging existing building, sitework or sewerage system	1
2.3.10	fail to comply with <i>Water and Sewerage Act 2000</i> , s 16—altered, removed or interfered with sanitary drain without giving required notice	failure to give required notice of intention to start or complete drainage work	1
2.3.11	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 7 (1)—did work on sanitary drainage system other than in accordance with approved plan	creation of sanitary drainage work other than in accordance with approved plan	1
2.3.12	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 8— (a) did not tell registrar when sanitary drainage work ready for inspection; or (b) did not leave sanitary drainage work ready for inspection as required	failure to tell registrar sanitary drainage work ready for inspection or to leave work uncovered for test	1
2.3.13	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 9 (1)—did not test sanitary drain in accordance with AS 3500 before it was to be passed by an inspector or, if the sanitary drain was altered or repaired, before the alteration or repair was to be passed	failure to test sanitary drain before inspection	1
2.3.14	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 9 (3)—did not rectify sanitary drainage work found to be defective	failure to rectify defective sanitary drainage work found by test	2
2.3.15	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 10—did not give registrar required information, fee and plan within required time for sanitary drainage work completed in accordance with AS 3500	failure to give required information, fee and plan for completed sanitary drainage work	1

column 1 item	column 2 demerit disciplinary ground	column 3 short description	column 4 demerit points
Part 2.4 Electricians licence demerit disciplinary grounds under Act, s 53 (1) (a)			
2.4.1	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (a) (i)—inadequate or no protection (eg insulation and enclosure) against direct contact with live parts	inadequate or no protection against direct contact with live parts	3
2.4.2	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (a) (ii)—inadequate or no protection (eg double insulation or isolating transformers) against indirect contact with exposed conductive parts	inadequate or no protection against indirect contact with exposed conductive parts	2
2.4.3	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (a) (iii)—inadequate or no protection (eg enclosure, guarding or screening) against hazardous parts (eg flammable materials, hot surfaces or parts that may cause physical injury)	inadequate or no protection against hazardous parts	3
2.4.4	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (a) (iv)—inadequate or no protection (eg unimpaired fire barriers) against spread of fire	inadequate or no protection against fire spread	1
2.4.5	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (a) (v)—electrical equipment in poor general condition (eg signs of damage that could impair safe operation, failure to disconnect unused electrical equipment)	creation of electrical equipment in poor general condition	1
2.4.6	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (b) (i)—noncompliant consumer mains current carrying capacity	creation of consumer mains with noncompliant current carrying capacity	2
2.4.7	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (b) (ii)—noncompliant consumer mains voltage drop	creation of consumer mains with noncompliant voltage drop	1
2.4.8	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (b) (iii)—noncompliant consumer mains underground installation condition	creation of consumer mains with noncompliant underground installation condition	3
2.4.9	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (b) (iv)—noncompliant consumer mains aerial installation condition	creation of consumer mains with noncompliant aerial installation condition	3
2.4.10	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (b) (v)—noncompliant consumer mains wiring connection	creation of consumer mains with noncompliant wiring connection	3

column 1 item	column 2 demerit disciplinary ground	column 3 short description	column 4 demerit points
2.4.11	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (b) (vi)—inadequate or no protection of consumer mains against external influences	failure to protect consumer mains against external influence	1
2.4.12	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (c) (i)—noncompliant switchboard location (eg access or egress)	creation of switchboard in noncompliant location	2
2.4.13	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (c) (ii)—switchboard protective device defect (eg overload and residual current rating, fault current rating)	creation of switchboard with protective device defect	3
2.4.14	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (c) (iii)—switchboard isolating device defect (eg main switch)	creation of switchboard with isolating device defect	3
2.4.15	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (c) (iv)—switchboard connecting device defect (eg neutral bars, earth bars or active link)	creation of switchboard with connective device defect	3
2.4.16	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (c) (v)—switchboard connection defect or fixing of switchboard wiring and switchgear defect	creation of switchboard with connection defect or fixing of wiring or switchgear defect	3
2.4.17	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (c) (vi)—switchboard identification defect or labelling of switchboard electrical equipment defect	creation of switchboard with labelling identification defect or labelling electrical equipment defect	1
2.4.18	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (c) (vii)—inadequate or no protection of switchboard against external influences	failure to protect switchboard against external influences	3
2.4.19	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (d) (i)—conductor size of wiring systems defect (eg current-carrying capacity or voltage drop)	creation of wiring system with conductor size defect	3
2.4.20	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (d) (ii)—inadequate or no identification of cable core	creation of wiring system with cable core identification defect	1
2.4.21	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (d) (iii)—inadequate or no support or fixing of wiring systems	creation of wiring system with inadequate or no support or fixing	1

column 1 item	column 2 demerit disciplinary ground	column 3 short description	column 4 demerit points
2.4.22	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (d) (iv)—connection or enclosure of wiring system defective	creation of wiring system with connection or enclosure defect	2
2.4.23	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (d) (v)—noncompliant installation of wiring system with installation condition (eg underground, aerial, emergency system)	creation of wiring system with installation condition in noncompliant way	3
2.4.24	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (d) (vi)—inadequate or no segregation of wiring system from other services and electrical installations	creation of wiring system with defective segregation from another service or electrical installation	3
2.4.25	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (d) (vii)—inadequate or no protection of wiring system against external influences (eg enclosure)	failure to protect wiring system against external influence	1
2.4.26	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (e) (i)—electrical equipment with isolation or switching devices not protected against injury from mechanical movement devices or motors	creation of electrical equipment with defect in isolation or switching device for protection against injury from mechanical movement device or motor	3
2.4.27	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (e) (ii)—electrical equipment with isolation or switching devices not protected against thermal effects (eg motors, room heaters, water heaters)	creation of electrical equipment with defect in isolation or switching device for protection against injury from thermal effect	2
2.4.28	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (e) (iii)—particular electrical equipment switching devices noncompliant (eg socket-outlets, cooking appliances)	creation of electrical equipment switching device noncompliant for particular electrical equipment	2
2.4.29	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (e) (iv)—electrical equipment switching devices noncompliant for use in installation conditions (eg locations affected by water, explosive atmospheres, extra- low voltage, high voltage)	creation of electrical equipment switching device noncompliant in conditions	3
2.4.30	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (e) (v)—electrical equipment noncompliant with required Australian Standard	creation of electrical equipment noncompliant with Australian Standard	3

column 1 item	column 2 demerit disciplinary ground	column 3 short description	column 4 demerit points
2.4.31	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (e) (vi)—electrical equipment connection, support or fixing defect	creation of electrical equipment with connection, support or fixing defect	2
2.4.32	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (e) (vii)—inadequate or no protection of electrical equipment against external influences	failure to protect electrical equipment against external influence	2
2.4.33	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (f) (i)—MEN connection defect	creation of defective MEN connection	3
2.4.34	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (f) (ii)—earth electrode defect	creation of defective earth electrode	3
2.4.35	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (f) (iii)—earthing conductor defect (eg size, identification)	creation of defective earthing conductor	3
2.4.36	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (f) (iv)—equipotential bonding conductor defect (eg size, identification)	creation of defective equipotential bonding conductor	3
2.4.37	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (f) (v)—earthing connection, joint or termination defect	creation of defective earthing connection, joint or termination	3
2.4.38	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (f) (vi)—inadequate or no protection of earthing connection against external influences	failure to adequately protect earthing connection against external influence	2
2.4.39	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (f) (vii)—noncompliant connection of earthing to earthing arrangements for another system	creation of earthing with noncompliant connection to earthing arrangements of another system	3
2.4.40	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 2.2 (f) (viii)—earthing situation required earthing of additional electrical equipment	creation of noncompliant earthing requiring earthing of additional electrical equipment	3
2.4.41	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 3.1—earthing system failed earth continuity and resistance test under AS 3017	creation of earthing system that failed earth continuity and resistance test under AS 3017	3

column 1 item	column 2 demerit disciplinary ground	column 3 short description	column 4 demerit points
2.4.42	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 3.2—wiring or installation with inadequate or no insulation resistance between all live parts, including live conductors and the electrical installation earth, and each live conductor of consumer mains and submains	creation of wiring or installation that failed insulation resistance test under AS 3017	3
2.4.43	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 3.3—wiring or installation with defective polarity of active, neutral or earthing conductors	creation of wiring or installation that failed polarity test under AS 3017	3
2.4.44	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 3.4—wiring or installation with defective circuit connections	creation of wiring or installation that failed correct circuit connections test under AS 3017	3
2.4.45	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 3.5—wiring or installation with defective fault-loop impedance	creation of wiring or installation that failed fault-loop impedance test under AS 3017	3
2.4.46	fail to comply with <i>Electricity Safety Act 1971</i> , s 33, compliance with AS 3000, as indicated by testing under AS 3017, cl 3.6—wiring or installation with defective residual current device (RCD) operation	creation of wiring or installation that failed RCD test under AS 3017	3
2.4.47	fail to comply with <i>Electricity Safety Act 1971</i> , s 34—did not ensure electrical wiring work tested under AS 3017 or did not give registrar or owner of installation required report about test	failure to test installation or give required test report	2
2.4.48	fail to comply with <i>Electricity Safety Act 1971</i> , s 36 (4)—contravention of direction under <i>Electricity Safety Act</i> , s 36 (2) to take stated action to make installation or work safe and compliant	failure to comply with direction to make installation or work safe	3
2.4.49	fail to comply with <i>Electricity Safety Act 1971</i> , s 66 or s 67—prescribed article of electrical equipment installed in, or connected to, electrical installation in stated circumstances	creation of connection to unapproved electrical appliance	3

Part 2.5 Gasfitters licence demerit disciplinary grounds under Act, s 53 (1) (a)

2.5.1	fail to comply with <i>Gas Safety Act 2000</i> , s 8 requiring work to be done under AS 5601, cl 2.5.2—provided outlet not connected to appliance and not sealed with plug, cap or blank flange	failure to appropriately seal surplus gas outlet	3
2.5.2	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cls 3.2.1 and 3.3.6—material used to join components of consumer piping system, or to connect to consumer piping system, with incompatible mating screw threads or non-compliant joint	creation of noncompliant joint in, or connection to, consumer piping system	1

column 1 item	column 2 demerit disciplinary ground	column 3 short description	column 4 demerit points
2.5.3	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cls 4.1.3, 4.3.1 (c) and 4.4—material of consumer piping system, or connecting to consumer piping system, not adequately protected from corrosion or isolated from incompatible material	creation of part of consumer piping system, or connection to it, without compliant corrosion protection or isolation between incompatible material	2
2.5.4	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cl 4.1.12—pipework forming part of consumer piping system required to have compliant markings and did not have them	failure to adequately identify gas pipework	1
2.5.5	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cl 4.2.4—pipework forming part of consumer piping system with diameter too small to achieve required available gas pressure	creation of part of consumer piping system with noncompliant pipework size	3
2.5.6	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cl 4.3— inadequate spacing or strength of devices supporting or restraining, or intended to support or restrain, consumer piping system	failure to adequately support or restrain gas pipework	1
2.5.7	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cl 4.6— part of piping system required to have adequate pressure protection device	creation of consumer piping system with defective gas pressure protection	3
2.5.8	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cl 4.7— gas vent located in noncompliant position, or so could discharge gas in prohibited way, or no required gas vent provided	creation of noncompliant gas vent discharge point or failure to provide required gas vent	2
2.5.9	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cls 4.8.2 and 4.8.3—gas hose assembly connection point located— (a) in bedroom, bathroom, sauna, toilet or hallway; or (b) in place where traffic across hose; or (c) if used for space heater—1m or less from doorway	creation of gas hose assembly connection in noncompliant location	1
2.5.10	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cl 4.9.2— quick-connect type gas connection point installed outside in way that possible for rainwater and debris to enter it	creation of quick-connect gas device outside with likelihood of entry of water or debris	1
2.5.11	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cl 4.11.3—part of consumer piping system located less than 25mm from metal electrical conduit, metal-armoured or metal-sheathed electrical wire or cable, or electrical earthing electrode	creation of part of gas pipework less than 25mm from electrical installation	1

column 1 item	column 2 demerit disciplinary ground	column 3 short description	column 4 demerit points
2.5.12	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cl 4.11.11—part of consumer piping system exposed to potential liquid discharge (eg from water heater relief valve or condensate drain)	creation of part of gas pipework exposed to liquid discharge	1
2.5.13	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cls 5.2.4, 5.3.1 and 5.4— (a) gas appliance's ventilation inadequate to ensure appliance's safe operation; or (b) possibility that operation of ventilation system, air distribution system or air blower could deprive gas appliance of air required for than atmospheric pressure at appliance or otherwise adversely affected appliance's operation; or (c) gas appliance installed at location without adequate ventilation for complete combustion of gas, proper fluing or maintenance of ambient temperature of immediate surrounds at safe level, under normal operating conditions; or (d) air supply to gas appliance contaminated with gases produced by fuel combustion, or contained chemicals or flammable vapours that could have affected combustion; or (e) gas appliance in room or enclosure required to have 1 or more of following, but did not: (i) natural ventilation direct from outside the room or enclosure; (ii) natural ventilation from nearby room or enclosure; (iii) mechanical ventilation	failure to provide gas appliance with compliant air ventilation or adequate combustion air supply	2
2.5.14	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cl 5.2.5—gas appliance installed other than in accordance with manufacturer's instructions	creation of gas appliance installation not in accordance with manufacturer's instructions	2
2.5.15	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cl 5.2.6—gas appliance installed but failure to install component or install in compliant way may have affected safe operation	creation of potentially unsafe gas appliance installation	3
2.5.16	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cls 5.2.7, 5.3.4 and 5.12—gas appliance installed so that— (a) surface temperature of nearby combustible surface could exceed 65°C above ambient temperature because of use of appliance; or (b) appliance is hazard to walls, nearby surfaces, curtains, furniture or opened door; or (c) clearance from appliance, including any flue, to anything else less than required	creation of gas appliance installation too close to combustible surface or other hazardous thing	3

column 1 item	column 2 demerit disciplinary ground	column 3 short description	column 4 demerit points
2.5.17	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cls 5.2.13, 5.2.15, 5.2.18, 5.2.19 and 5.12—gas appliance installed— (a) so that supported on, or secured to, structure that not durable, or otherwise inappropriate; or (b) so that supported or secured in way that does not minimise strain on any gas pipe connection; or (c) so that not secured or stabilised in way suitable for its conditions of use or in accordance with manufacturer's instruction (eg upright stove not prevented from tilting when oven door open and lent on; or (d) but not restrained, or restrained in non-compliant way if required to be restrained against rolling on wheels, rollers or castors	creation of gas appliance with noncompliant support, security, restraint or stability	2
2.5.18	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cl 5.3.11 (c) and (d)—gas appliance in roof space not provided with compliant access walkway— (a) of required dimensions from point of access into roof space to gas appliance and around appliance; and (b) with no duct intruding on it; and (c) capable of supporting person's weight; and (d) permanently fixed to building	failure to provide compliant walkway to roof space gas appliance	3
2.5.19	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cl 5.3.11 (f)—gas appliance in roof space without required artificial lighting or lighting switch located adjacent to, and within 600mm from closest edge of, access opening into roof space	failure to provide required compliant artificial light to roof-space gas appliance	2
2.5.20	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cl 5.3.11 (c) and (g)—roof-space gas appliance located so that cannot be readily lit or serviced, or so that components cannot be removed	creation of defective roof-space gas appliance installation— not readily lit or serviced, parts cannot be removed	2
2.5.21	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cl 5.3.11 (e)—roof-space gas appliance required to be installed in stated way on non-combustible platform or on combustible platform with compliant heat shielding was not installed that way	creation of roof-space gas appliance with platform inadequately protected from combustion	3
2.5.22	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cl 5.6—thing connected to consumer piping system did not have required compliant device to allow thing to be isolated or disconnected from gas supply	failure to provide required compliant way to disconnect or isolate gas supply	1
2.5.23	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cl 5.11—gas appliance installed without required automatic gas shut-off if operation of overhead automatic fire extinguishing equipment might extinguish appliance's flame	creation of gas appliance installation without automatic gas shut-off on automatic fire extinguishing	3

column 1 item	column 2 demerit disciplinary ground	column 3 short description	column 4 demerit points
2.5.24	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cl 5.13—gas appliance with flue made of noncompliant material or configured, located or supported in noncompliant way	creation of gas appliance installation with noncompliant flue	3
2.5.25	fail to comply with <i>Gas Safety Act 2000</i> , s 8, requiring work to be done under AS 5601, cl E3.2.1—consumer piping system gas pressure dropped or gas leaked more than allowed	creation of consumer piping system or connection that leaked gas or dropped gas pressure	3
2.5.26	fail to comply with <i>Gas Safety Act 2000</i> , s 9 (1)—gasfitting work completed in accordance with <i>Gas Safety Act</i> , s 9, but— (a) compliance indicator not attached to the consumer piping in accordance with <i>Gas Safety Act</i> ; or (b) certificate of compliance for work not given in accordance with <i>Gas Safety Act</i>	failure to attach appropriate indicator to completed gas pipework or to give appropriate certificate of compliance for pipework	3
2.5.27	fail to comply with <i>Gas Safety Act 2000</i> , s 24 (2)—gas appliance that not approved connected to consumer piping system	connection of unapproved appliance to consumer piping system	3

Part 2.6 Plumbers licence demerit disciplinary grounds under Act, s 53 (1) (a)

2.6.1	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 6 (1), performance requirement under AS 3500.2.1, cl 7.1 (b)—sanitary plumbing system using water-borne waste disposal designed or constructed in a way that failed to avoid likelihood of blockage or leakage	creation of sanitary plumbing system with likelihood of blockage or leakage	2
2.6.2	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 6 (1), performance requirement under AS 3500.2.1, cl 7.1 (c)—sanitary plumbing system using water-borne waste disposal designed or constructed in way that failed to avoid the likelihood of water, foul air or gases entering a building	creation of sanitary plumbing system with likelihood of water, foul air or gas entering a building	2
2.6.3	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 6 (1), performance requirement under AS 3500.2.1, cl 7.1 (d)—sanitary plumbing system using water-borne waste disposal designed or constructed in a way that failed to provide access for maintenance and clearing blockages	creation of sanitary plumbing system without access for maintenance and clearing blockages	1
2.6.4	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 6 (1), performance requirement under AS 3500.2.1, cl 7.1 (e)—sanitary plumbing system using water-borne waste disposal designed or constructed in a way that failed to avoid likelihood of damage from superimposed loads or normal building movement	creation of sanitary plumbing system with likelihood of damage from loads or building movement	1
2.6.5	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 6 (1), performance requirement under AS 3500.1.1, cl 5 (a) and (e)—did not safeguard people from illness because of consumption of, or contact with, contaminated water, throughout design life of cold water supply installation	failure to safeguard people from illness because of consumption of, or contact with, contaminated water	2

column 1 item	column 2 demerit disciplinary ground	column 3 short description	column 4 demerit points
2.6.6	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 6 (1), performance requirement under AS 3500.1.1, cl 5 (b) and (e)—did not safeguard people from injury or loss of amenity because of failure of water supply installation throughout design life of cold water supply installation.	failure to safeguard people from injury or loss of amenity because of failure of water supply installation	2
2.6.7	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 6 (1), performance requirement under AS 3500.1.1, cl 5 (c) and (e)—did not safeguard people from water supply that is offensive in appearance, taste or odour because of failure of water supply installation throughout design life of cold water supply installation.	failure to safeguard people from water supply with offensive appearance, taste or odour	1
2.6.8	fail to comply with <i>Water and Sewerage Act 2000</i> , s 11 (2) or s 15 (1) (a) and <i>Water and Sewerage Regulations 2001</i> , reg 17— (a) installed or fitted sprinkler system or part of fire sprinkler service without giving required notice of start to registrar; or (b) altered, repaired or replaced pipe or fitting communicating with water network without giving required notice (including required plumbing plan) of start to registrar or without required approval	failure to give required notice of intention to start sprinkler or fire sprinkler work or interfere with pipes communicating with water network	1
2.6.9	fail to comply with <i>Water and Sewerage Act 2000</i> , s 15 (1) (b) and (c)— (a) contravened direction of registrar about alteration, repair or replacement of pipe or fitting; or (b) laid pipe communicating with water network other than as authorised under MP52	failure to do work connecting to water network in accordance with registrar's direction or MP52	2
2.6.10	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 19— (a) did not tell registrar when water supply plumbing work ready for inspection; or (b) did not leave water supply plumbing work ready for inspection as required	failure to tell registrar water supply plumbing work ready for inspection or to leave work uncovered for test	1
2.6.11	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 20 (1)—did not test water supply plumbing in accordance with AS 3500 before it was to be passed by an inspector or, if the water supply plumbing was altered or repaired, before the alteration or repair was to be passed	failure to test water supply plumbing before inspection	1
2.6.12	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 20 (3)—did not rectify water supply plumbing work found to be defective	failure to rectify defective water supply plumbing work found by test	2
2.6.13	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 21—did not give registrar required information, fee and plan within required time for water supply plumbing work completed in accordance with AS 3500	failure to give required information, fee and plan for completed water supply plumbing work	1
2.6.14	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 22 (5)—installed testable backflow prevention device but did not tell registrar about installation or ensure device tested as required as soon as practicable	installation of testable backflow prevention device without notifying or testing	1

column 1 item	column 2 demerit disciplinary ground	column 3 short description	column 4 demerit points
2.6.15	fail to comply with <i>Water and Sewerage Act 2000</i> , s 16—altered, removed or interfered with sanitary plumbing without giving required notice	failure to give required notice of intention to start or complete sanitary plumbing work	1
2.6.16	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 7 (1)—did work on sanitary plumbing system other than in accordance with approved plan	creation of sanitary plumbing work other than in accordance with approved plan	1
2.6.17	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 8— (a) did not tell registrar when sanitary plumbing work ready for inspection; or (b) did not leave sanitary plumbing work ready for inspection as required	failure to tell registrar sanitary plumbing work ready for inspection or to leave work uncovered for test	1
2.6.18	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 9 (1)—did not test sanitary plumbing in accordance with AS 3500 before it was to be passed by an inspector or, if the sanitary plumbing was altered or repaired, before the alteration or repair was to be passed	failure to test sanitary plumbing before inspection	1
2.6.19	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 9 (3)—did not rectify sanitary plumbing work found to be defective	failure to rectify defective sanitary plumbing work found by test	2
2.6.20	fail to comply with <i>Water and Sewerage Regulations 2001</i> , reg 10—did not give registrar required information, fee and plan within required time for sanitary plumbing work completed in accordance with AS 3500	failure to give required information, fee and plan for completed sanitary plumbing work	1

Part 2.7 Plumbing plan certifiers licence demerit disciplinary grounds under Act, s 53 (1) (a)

2.7.1	fail to comply with <i>Water and Sewerage Act 2000</i> , s 8 (1)—approved plumbing or sanitary drainage work plan without required approvals	failure to obtain required approval before approving plumbing or drainage plan	3
2.7.2	fail to comply with <i>Water and Sewerage Act 2000</i> , s 8 (2) (d)—certifier issued plan approval for proposed plumbing or sanitary drainage work, or approved amendment plan, where design of work did not comply with AS 3500	creation of plan approval or amendment for noncompliant plumbing or drainage work	2
2.7.3	fail to comply with <i>Water and Sewerage Act 2000</i> , s 9 (2)—certifier approved amendment to plan approval for proposed plumbing or sanitary drainage work where reconsideration required	approved amended plan that required reconsideration	1
2.7.4	fail to comply with <i>Water and Sewerage Act 2000</i> , s 9 (3)—certifier did not keep all documents relating to approved plumbing or drainage plan for at least 1 year	failure to keep plan approval records for 1 year	1

column 1 item	column 2 demerit disciplinary ground	column 3 short description	column 4 demerit points
2.7.5	fail to comply with <i>Water and Sewerage Act 2000</i> , s 10—certifier did not notify registrar within 7 days after end of appointment under <i>Water and Sewerage Act</i> , s 5 (3) or (4)	failure to notify loss of appointment as certifier within 7 days after loss	1

Part 2.8 All licences demerit disciplinary grounds under Act, s 53 (1) (a)

2.8.1	fail to comply with Act, s 40—contravention of rectification order other than emergency rectification order	contravention of non-emergency rectification order	2
2.8.2	fail to comply with Act, s 40—contravention of emergency rectification order	contravention of emergency rectification order	4
2.8.3	fail to comply with Act, s 46—did not give client evidence of relevant insurance before providing construction service	failure to give client insurance evidence	1
2.8.4	fail to comply with Act, s 87 (1)—contravention of licence condition that— (a) limited number or cost of construction services provided under licence; or (b) required licensee to do something in a stated way in connection with the performance of a construction service	failure to comply with licence condition	2
2.8.5	fail to comply with Act, s 87 (3)—contravention of applicable code of practice	failure to comply with applicable code of practice	1

Schedule 3 Licence demerit disciplinary grounds under Act, s 53 (1) (other than par (a))

Schedule 3 to the Regulations, as provided for in regulation 42, lists each demerit disciplinary ground for each construction occupation that is covered by the disciplinary grounds other than those mentioned in section 53 (1)(a) of the Act. Column 1 gives an item number to each demerit, column 2 provides a detailed description of the demerit disciplinary ground, column 3 provides a short description and column 4 specifies the number of demerit points that attach to the item.

column 1 item	column 2 demerit disciplinary ground	column 3 short description	column 4 demerit points
3.1	s 53 (1) (b)	giving false or misleading information	2

Dictionary - Regulations

The dictionary, as provided for in regulation 2, forms part of the Regulations and defines terms in the Regulations. Notes explain that the Legislation Act and the Construction Occupations (Licensing) Bill 2003 contain other definitions and provisions that apply to the Regulations.

Dictionary – Bill

The dictionary for the Bill, as provided for in clause 3, forms part of the Bill and defines terms in the Bill. Notes explain that the Legislation Act contains other definitions and provisions that apply to the Regulations.

Cost implications

The computer systems through which licensing is administered will require updating to meet the needs of the new legislation. Effective implementation of the new licensing scheme, with its strengthened enforcement provisions, make it desirable to provide additional resources, especially in relation to electrical and plumbing work, while the construction industry becomes accustomed to the new expectations.