

Western Australia

LEGISLATIVE ASSEMBLY

Water Services Coordination Amendment Bill 1999

A Bill for

**An Act to amend the *Water Services Coordination Act 1995* and to
consequentially amend certain other Acts.**

The Parliament of Western Australia enacts as follows:

1. Short title

This Act may be cited as the *Water Services Coordination
Amendment Act 1999*.

s. 2

2. Commencement

The provisions of this Act come into operation on such day as is, or days as are respectively, fixed by proclamation.

3. The Act amended

5 The amendments in this Act are to the *Water Services Coordination Act 1995** unless otherwise indicated.

[* *Act No. 72 of 1995.*

10 *For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 247 and Act No. 32 of 1997.]*

4. Long title amended

The long title is amended by deleting “**and to confer powers and**” and inserting instead —

“

15 **to confer powers, to establish a Board with functions related to the licensing of plumbers, to provide for regulation making powers in respect of the Board, licensing matters and the carrying out of plumbing work and to**

”.

20 **5. Section 3 amended**

Section 3 is amended as follows:

- (a) by inserting in the appropriate alphabetical positions the following definitions —

“

25 **“Board”** means the Plumbers Licensing Board established by section 59;

“department” means the department of the Public Service principally assisting the Minister in the administration of this Act;

“**plumber**” means a person who carries out plumbing work as defined in section 59I;

”;

(b) by deleting the definition of “licence” and inserting instead —

“

“**licence**” —

(a) in Schedule 3, means a licence under the regulations; and

(b) otherwise, means an operating licence;

”.

6. Section 59 repealed

Section 59 is repealed.

7. Part 5A inserted

After Part 5 the following Part is inserted —

“

Part 5A — Licensing of plumbers and related matters

Division 1 — Plumbers Licensing Board

59. Board established

A board called the Plumbers Licensing Board is established.

59A. Membership of Board

The Board consists of not more than 9 members appointed by the Minister in accordance with the regulations.

59B. Functions of Board

- (1) The functions of the Board are —
- (a) to monitor matters relating to the qualification and training of plumbers, and to provide advice on those matters to the Minister and the Coordinator and, with the approval of the Minister, to any other person or body concerned with those matters;
 - (b) to advise the Minister and the Coordinator on matters relating to the licensing and regulation of plumbers;
 - (c) to administer any licensing scheme provided for by the regulations; and
 - (d) to perform licensing, disciplinary and other functions given to it by the regulations.
- (2) It is also a function of the Board to do things that it is authorized to do by any other written law.

59C. Powers of Board

The Board has all the powers it needs to perform its functions under this Act or any other written law.

59D. Delegation

- (1) The Board may, by instrument, delegate the performance of any of its functions, except this power of delegation and any disciplinary power conferred by the regulations or another written law.
- (2) A delegation under subsection (1) may be made to —
- (a) a member of the Board;
 - (b) any committee established under the regulations; or

(c) with the approval of the Minister, any other person.

(3) A function performed by a delegate is to be taken to be performed by the Board.

5 (4) A delegate performing a function under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.

59E. Minister may give directions

10 (1) Subject to subsection (2), the Minister may give directions in writing to the Board with respect to the performance of its functions, either generally or in relation to a particular matter, and the Board is to give effect to any such direction.

15 (2) The Minister must not under subsection (1) direct the Board with respect to the performance of its licensing or disciplinary functions, whether under this Act or any other written law, in respect of —

(a) a particular person; or

20 (b) a particular application, complaint or proceeding.

(3) The text of a direction given under subsection (1) is to be included in the annual report submitted by the accountable officer of the department under section 62 of the *Financial Administration and Audit Act 1985*.

25 **59F. Minister to have access to information**

(1) The Minister is entitled —

(a) to have information in the possession of the Board; and

s. 7

- (b) if the information is in or on a document, to have, and make and retain copies of, that document.
- (2) For the purposes of subsection (1) the Minister may —
- 5 (a) request the Board to furnish information to the Minister;
- (b) request the Board to give the Minister access to information; and
- 10 (c) for the purposes of paragraph (b) make use of the staff of the Board to obtain the information and furnish it to the Minister.
- (3) The Board is to —
- (a) comply with a request under subsection (2); and
- 15 (b) make its staff and facilities available to the Minister for the purposes of subsection (2)(c).
- (4) The Minister is not entitled to have information under this section in a form that —
- (a) discloses the identity of a person involved in a complaint; or
- 20 (b) might enable the identity of any such person to be ascertained,
- unless that person has consented to the disclosure.
- (5) In this section —
- 25 **“document”** includes any tape, disc or other device or medium on which information is recorded or stored mechanically, photographically, electronically or otherwise;
- 30 **“information”** means information specified, or of a description specified, by the Minister that relates to the functions of the Board;

“staff” means any person whose services are the subject of an arrangement under section 59G(1).

59G. Use of government staff, etc.

- 5 (1) The Board may by arrangement with the relevant employer make use, either full-time or part-time, of the services of any officer or employee —
- (a) in the Public Service; or
 - (b) in a State agency or instrumentality.
- 10 (2) The Board may by arrangement with —
- (a) a department of the Public Service; or
 - (b) a State agency or instrumentality,
- make use of any facilities of the department, agency or instrumentality.
- 15 (3) An arrangement under subsection (1) or (2) is to be on the terms agreed to by the parties.

59H. Application of *Financial Administration and Audit Act 1985*

- Any acts or things done by the Board under this Act or any other written law are to be regarded —
- 20 (a) as services under the control of the department for the purposes of section 52 of the *Financial Administration and Audit Act 1985*; and
- (b) part of the operations of the department for the purposes of Division 13 of Part II of that Act.

Division 2 — Regulations

59I. Definitions

In this Division and in Schedule 3 —

5 “**plumbing work**” means work of a kind specified to
 be water supply plumbing, sanitary plumbing or
 drainage plumbing;

 “**specified**” means specified in the regulations.

59J. Regulations

10 Regulations may be made under section 61 for all or
 any of the purposes, or about all or any of the matters,
 set out in Schedule 3.

59K. Offences against regulations

Regulations referred to in section 59J may —

- 15 (a) create offences and provide, in respect of an
 offence so created, for the imposition of a fine
 not exceeding \$5 000; and
- (b) establish a scheme for the giving of
 infringement notices in respect of specified
20 offences against the regulations, prescribe
 modified penalties for such offences and
 provide for the appointment of persons to give
 infringement notices and administer that
 scheme.

59L. Adoption of other laws, codes etc.

- 25 (1) Regulations referred to in section 59J may adopt, either
 wholly or in part or with modifications —
- (a) any rules, regulations, codes, or other
 subsidiary legislation made, determined or
30 issued under any other Act or under any
 Commonwealth Act; or

(b) any of the standards, rules, codes or specifications of the body known as the Standards Association of Australia or a similar specified body.

5 (2) If any subsidiary legislation, standard, rule, code or specification is adopted under subsection (1), it is adopted as in force from time to time unless the regulations specify that a particular text is adopted.

”.

10 **8. Sections 60A and 60B inserted**

After section 60 the following sections are inserted —

“

60A. Protection from liability

15 (1) An action in tort does not lie against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act.

20 (2) The Board and the Crown are also relieved of any liability that either of them might otherwise have had for another person having done anything as described in subsection (1).

25 (3) The protection given by this section applies even though the thing done as described in subsection (1) may have been capable of being done whether or not this Act had been enacted.

(4) In this section, a reference to the doing of anything includes a reference to an omission to do anything.

60B. Confidentiality

- (1) This section applies to a person who is or has been —
- (a) the Coordinator;
 - (b) a member of the Board; or
 - (c) a person performing functions under this Act.
- (2) A person to whom this section applies must not, directly or indirectly, record, disclose or make use of any information obtained in the course of duty except —
- (a) for the purpose of performing functions under this Act;
 - (b) as required or allowed by this Act or under another written law;
 - (c) with the written consent of the person to whom the information relates; or
 - (d) in other prescribed circumstances.
- Penalty:
- (a) in the case of information to which section 56 applies, \$10 000 and imprisonment for 12 months;
 - (b) in any other case, \$5 000.
- (3) Subsection (2) does not apply to the disclosure of any summary or statistical information that could not reasonably be expected to enable particulars relating to any person or business to be ascertained.

”.

9. Section 62 amended

Section 62(2) is amended after paragraph (b) by deleting “and” and inserting —

“

- 5 (ba) the effectiveness of the operations of the Board;
 (bb) the need for the continuation of the functions of the Board; and

”.

10. Schedule 3 added

10 After Schedule 2 the following Schedule is added —

“

Schedule 3 — Purposes for which, or matters about which, regulations may be made

[s. 59J]

- 15 **1.** The membership of the Board and the manner in which the membership is to be determined.
- 2.** The appointment of a chairperson and deputy chairperson of the Board.
- 20 **3.** The term of office of members of the Board and the circumstances in which a member of the Board may be removed from office.
- 4.** The appointment of alternate members of the Board.
- 5.** The constitution and proceedings of the Board.
- 25 **6.** The remuneration of members of the Board and members of any committee established by the Board.

s. 10

7. To permit the Board to establish committees for disciplinary or other purposes and to provide for the constitution, practice and procedure of any such committee.
8. The licensing of plumbers, including, without limitation —
- 5 (a) the persons who may hold a licence;
 - (b) classes of licence and the plumbing work that may be carried out under the authority of a licence of a particular class;
 - 10 (c) the qualifications, level of experience or competency requirements necessary for the grant of a licence of a particular class;
 - (d) the matters of which the Board must be satisfied before granting a licence of a particular class;
 - 15 (e) the issue, duration, renewal, suspension or cancellation of licences;
 - (f) the imposition of conditions or restrictions on licences;
 - (g) the keeping of a register of specified information in respect of licences and matters relating to the amendment and accuracy of the register;
 - 20 (h) the manner of making a complaint against or concerning a person who is or was the holder of a licence, and who may make such a complaint;
 - 25 (i) disciplinary matters and the regulation of the practice and procedure to be followed in the investigation of, and inquiry into, disciplinary matters;
 - (j) the powers that may be exercised following the hearing and determination of disciplinary matters, including power to impose disciplinary penalties;
 - 30 (k) to permit orders to be made requiring payment of costs and expenses associated with disciplinary

proceedings, and to provide for the recovery of any such penalties, costs or expenses;

- (l) appeals against decisions of the Board or any committee established by the Board;
- 5 (m) the publication in specified circumstances of information relating to the cancellation or suspension of a licence, and the manner of such publication;
- 10 (n) the manner in which holders of licences may advertise, display or otherwise publicize the fact that they carry out plumbing work; and
- (o) matters of a savings or transitional nature.

9. The prohibition of persons other than holders of licences from carrying out plumbing work.

15 10. The regulation and control of plumbing work.

11. Standards to be observed in, or in connection with, the carrying out of plumbing work.

20 12. The appointment or authorization of persons to inspect plumbing work and investigate complaints in respect of plumbing work, and their powers, including powers of entry, for the purposes of such inspection or investigation.

13. Fees to be paid for or in connection with matters provided for in the regulations and the persons liable to pay those fees.

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25 **11. Consequential amendments**

(1) After section 12A(6) of the *Builders' Registration Act 1939** the following subsection is inserted —

“

30 (7) To avoid doubt, it is declared that a reference in this section to building work includes plumbing work as

defined in section 59I of the *Water Services Coordination Act 1995*.

”.

[* Reprinted as at 15 April 1997.

5 For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 24 and Act No. 31 of 1997.]

- (2) Part 3 of Schedule V to the *Constitution Acts Amendment Act 1899** is amended by inserting after the item relating to The Physiotherapists’ Registration Board the following item —

10

“

The Plumbers Licensing Board established by the *Water Services Coordination Act 1995*.

”.

[* Reprinted as at 22 January 1997.

15 For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, pp. 49-50, and Acts Nos. 22 and 31 of 1997 and 4, 10, 13, 23, 30 and 65 of 1998.]

- (3) Section 105(1) of the *Country Areas Water Supply Act 1947** is amended by deleting paragraphs (xx) and (xxi).

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[* Reprinted as at 27 May 1996.

For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 53, and Acts Nos. 31 and 32 of 1997 and 10 and 42 of 1998.]

- 25 (4) Section 102 of the *Country Towns Sewerage Act 1948** is amended by deleting paragraphs (20) and (22).

[* Reprinted as at 28 May 1996.

For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, pp. 54-5, and Acts Nos. 31 of 1997 and 10 of 1998.]

- (5) Section 134 of the *Health Act 1911** is amended by deleting paragraphs (10), (11) and (44).

[* Reprinted as at 11 March 1997.

5 For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, pp. 104-5, and Acts Nos. 31 of 1997 and 10, 15 and 62 of 1998.]

- (6) Section 146(1) of the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909** is amended by deleting paragraphs (24) and (25).

10 [* Reprinted as at 29 January 1999.

- (7) Section 34(3) of the *Water Agencies (Powers) Act 1984** is amended by deleting paragraphs (l) and (m) and inserting instead —

“

- 15 (l) provide for systems of notification, certification, inspection and authorization of plumbing work, as defined in section 59I of the *Water Services Coordination Act 1995*, connected with or to be connected with the Corporation's works;

”.

20 [* Reprinted as at 30 April 1996.

 For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 246, and Acts Nos. 31 and 32 of 1997.]

- 25 (8) Section 141 of the *Water Boards Act 1904** is amended by deleting paragraphs (19) and (20).

[* Reprinted as at 4 November 1996.

 For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 247, and Acts Nos. 31 of 1997 and 42 of 1998.]

