



Regulatory impact statement

Enacting the Plumbers, Gasfitters and Drainlayers Act 2006

Executive summary

1. The regulation of plumbers, gasfitters and drainlayers is required to safeguard public health and safety, prevent damage to property, and protect consumers. These goals should be actioned in a way that does not place unnecessary restrictions on registering or licensing those doing the work, or impose undue costs on them, or on the public.
2. The current regulatory regime can be improved if the provisions of the Plumbers, Gasfitters and Drainlayers Act 2006 (the 2006 Act) are brought into force. Further improvements can be achieved by giving consumers and employers more clarity and certainty about what work the different classes of licence holders are qualified to carry out; and by reducing barriers to, and costs of, entry to the industry.
3. Seven problems have been identified and a number of solutions posed. Preferred solutions are highlighted.

Adequacy statement

4. The Department of Building and Housing (the Department) considers there has been adequate:
 - analysis to establish that existing arrangements are not able to deal with the problems being addressed;
 - analysis at an appropriate level, given the magnitude of the proposal itself;
 - consultation undertaken.
5. Costings are not available for inclusion in this analysis. The Department considers that it is in the nature of protective regulation that the costs of **not** applying adequate standards to protect public health and safety are virtually impossible to quantify. Many of these costs are high impact when they do emerge (for example with “leaky buildings, or with gas explosions).

Status quo

6. The Plumbers, Gasfitters and Drainlayers Act 2006 (the Act) covers some 11,500 licensed plumbers, gasfitters and drainlayers and impacts on 3,507 businesses within New Zealand. Eighty-eight percent of these businesses are sole traders or companies employing between one and five people. The average income within the industry is \$45,130 p.a. (\$990 less than the national average income).
7. The purpose of the Act is to protect the public from harm associated with unsafe plumbing, gasfitting and drainlaying work. The Act updates the Plumbers, Gasfitters and Drainlayers Act 1976.
8. When the Act was passed in 2006 some sections were not brought into force including:
 - subjecting the Plumbers, Gasfitters and Drainlayers Board (the Board) to the Official Information Act 1982

- requiring the Board to submit an annual report to Parliament
- requiring the Board to produce an output agreement
- allowing the Minister for Building and Construction to request information from the Board
- removing “limited licenses” in favour of “exemptions”
- enabling the Board to accredit training programmes.

Problem definition

9. The Board and the Department of Building and Housing have identified the following seven key problems with the regulation of plumbers, gasfitters and drainlayers.

Lack of transparency and accountability

10. There are no mechanisms in the 1976 Act that allow the Minister or Parliament to monitor the performance of the Board or to require the Board to make public information on request.

Lack of clarity for consumers on the nature of work authorised to be done

Titles of trades

11. While the terms “registered” and “certified” tradespersons are understood within the industry, it is not clear that consumers have a clear appreciation of the nature of the work that registered people are authorised to carry out. This can leave consumers vulnerable if they engage workers who are not suitably qualified to carry out work to the required standard, and/or may result in insurance cover being invalid if work is not certified by an authorised person.

Categories of drainlayer

12. Unlike the plumbers and gasfitters there is only one tier of drainlayer. This makes it difficult to effectively supervise and test work.

Certification of gas work

13. Only craftsman gasfitters may certify gas work as safe. The general public are not aware of this and often seek to employ a “registered gasfitter” who ultimately cannot sign off on their own work.

Barriers to carrying out plumbing, gasfitting and drainlaying work.

Registration as a registered plumber, gasfitter or drainlayer

14. Existing provisions require plumbers, gasfitters and drainlayers to complete a course of training and pass an independent examination set by the Board before they can be registered. Between 2004 and 2007, only 29, 60 percent of plumbers and gasfitters who sat the examination passed it. In 2006 and 2007 61 percent of drainlayers passed the Board's exam. This represents a substantial cost to the individuals who are unable to operate as registered practitioners. It is also likely to reduce the numbers of registered plumbers otherwise able to work in the industry, and it will contribute to skill shortages at times of heightened construction activity.

15. The Act extends the definition of gasfitting to cover smaller capacity installations such as LPG installations on boats and motor homes. Retaining the requirement for the full range of gasfitting competencies to be demonstrated to be able to do this class of work could introduce avoidable occupational protection for a category of gasfitting work.

Registration as a craftsman plumber or gasfitter

16. Craftsmen plumbers and gasfitters direct and supervise registered plumbers and gasfitters and take full responsibility for the work done. In addition, craftsman gasfitters are the only class of practitioner able to certify gasfitting work. Craftsman plumbers and gasfitters need to work for at least two years under supervision as registered plumbers and gasfitters and pass a qualifying examination. However, there is no formal training programme leading up to the examination. Between 2004 and 2007, 53 percent passed the examination. One of the consequences of the leakage is that there are fewer people capable of supervising and certifying gasfitting work, with potential costs to consumers.
17. In addition, there is currently no tier for craftsman drainlayers. The Act will require that some types of drainlaying work be supervised and tested, without a tier for craftsman drainlayers it will be difficult to distinguish who is capable to undertake this supervision and testing.

Registration of non-apprentices

18. The 2006 Act does not provide for “limited certificates” for non-apprentices¹. In the absence of alternative provision, some 2000 employees will not be able to work in the industry. This may have negative impacts on employers, employees and consumers who will have to access more expensive services from a fully registered workforce.

Absence of competency based licensing

19. Currently a plumber or drainlayer retains a capacity to work in the industry provided an annual licence fee is paid and no restrictive disciplinary action has been taken. This is no ongoing obligation to keep abreast of the requirements of emerging technologies and to maintain a programme of personal professional development. Competency based licensing does apply for gasfitting.

Little alignment with Australia

20. A lack of alignment of the number, scope and titles of registered trades impedes giving effect to the Trans-Tasman Mutual Recognition Act for these trades.

Lack of clarity around criteria for monitoring employer licenses

21. Employer licenses enable employers to develop systems of operation that ensure public and employee safety without each employee having to be a registered gasfitter. However, existing arrangements do not clearly set out what qualifications those people who audit employer licenses must have, the result is a lack of assurance that the systems employers operate to ensure safety are up to standard.

The “Gas Inspector’s” role is outdated

22. A Craftsman Gasfitter now has the same authority as a Gas Inspector who carries out third party inspections. The Gas Inspector role is now anachronistic and no new registrations have been issued for some years.

Objectives

23. Addressing the above problems will contribute to achieving the following objectives:
- “to protect the health and safety of members of the public by ensuring the competence of persons engaged in the provision of sanitary plumbing, gasfitting and drainlaying services”;

¹ Those who have attained National Certificate but not passed the Board registration exam, those electing to sit the Board exam after 5 years supervised work, immigrants awaiting recognition of qualifications, and labourers who choose not to enter formal learning.

- enhance the ability of government to monitor the performance of the Board and the Act
- move industry to competency based renewal of licences to help ensure that practitioners retain the currency of their skills and to keep them abreast of changing technological and regulatory requirements;
- enable the Board to ensure the adequacy of training by allowing the Board to accredit programmes that lead to registration, thereby improving the alignment of industry training with the assessment and examination process required to ensure competency
- enable more effective supervision and testing of persons doing certain work under exemption, while strengthening the accountability of persons who carry out the supervision and testing functions.

Options

24. This section identifies the options to address the problems outlined in paragraphs 10-22. The impact of each option is also provided. The preferred option is highlighted.

25. Costings for the advantages and disadvantages of the options are not available for inclusion in this analysis. The Department considers the nature of protective regulation means the costs of **not** applying adequate standards to protect public health and safety are virtually impossible to quantify. Many of these costs are high impact when they do emerge (for example with “leaky buildings, or with gas explosions).

Problem - Lack of transparency and clarity	
Options (preferred is highlighted)	Impact Analysis (for each option)
Requires the Board to: <ul style="list-style-type: none"> • produce an annual report • produce an output agreement • submit to the Official Information Act. 	<p>The Board is spending \$600,000 on necessary improvements to its administrative arrangements to ensure it is able to met these requirements.</p> <p>Ongoing costs will be incurred in respect of producing documentation and fulfilling requirements under the Official Information Act.</p>

Problem - Lack of clarity for consumers on the nature of work authorised to be done	
Options (preferred is highlighted)	Impact Analysis (for each option)
<p><i>Titles of trades</i></p> <p>(a) retain existing classes of registration and titles, but introduce a more active consumer education programme.</p> <p>(b) introduce new titles to align with actual authorities (such as “licensed” plumber, “certifying” gasfitter)</p> <p>(c) consult further on appropriate changes to titles.</p>	<p><i>Titles of trades</i></p> <p>(a) some cost, impact on consumer awareness uncertain.</p> <p>(b) Reduces confusion for consumers. Costs for practitioners in respect of changing advertising materials. Board to produce explanatory material.</p> <p>(c) delays remedy at source of confusion, but increases prospects of support from industry for new explanatory activity.</p>
<p><i>Categories of drainlayer</i></p> <p>(a) retain the status quo.</p> <p>(b) add a second tier qualification</p>	<p><i>Categories of drainlayer</i></p> <p>(a) avoids costs of developing a testing and examination regime.</p>

	(b) creates scope for local authorities to devolve testing of drainlaying installations with confidence.
<i>Certification of gas work</i> (a) retain the status quo. (b) clarify certification role of craftsmen gasfitters either through consumer education and/or work with insurance industry, and/or change the title. (c) introduce stricter monitoring of gas certificates.	<i>Certification of gas work</i> (a) avoids additional costs, but confusion continues. (b) reduces confusion at some cost: impact on consumer awareness uncertain. (c) will create additional compliance costs for the Board, which may necessitate an increase in the current gas certificate fee.

Problem - Barriers to carrying out plumbing, gasfitting and drainlaying work	
Options (preferred is highlighted)	Impact Analysis (for each option)
<i>Registration as a registered plumber, gasfitter or drainlayer</i> (a) retain independent examination. (b) accredit competency programmes for recognition for registration. (c) develop examinations at annual stages of National Certificate training programme. (d) retain independent examination as alternative to (b) and/or (c) above (e) move towards recognition of accredited programmes once satisfactory testing and examination routines have been introduced.	<i>Registration as a registered plumber, gasfitter or drainlayer</i> (a) no reduction in skill leakage. Protects existing public safety assurance standard. (b) eliminates two stage registration process. Risks disputes over accreditation. Requires ongoing monitoring of standards of accredited programmes. (c) reduces gap between training course and completion of examination requirement(s). Level of skill leakage yet to be ascertained. (d) provides fallback to (b) or (c) above. (e) retains credibility of qualification and provides incentives to improve demonstrated competency.
<i>Registration as a craftsman plumber, gasfitter or drainlayer</i> (a) retain independent examination. (b) accredit competency programmes for recognition for registration. (c) introduce a formal programme of learning to assist with improving the pass rate for the qualification. (d) introduce a new category of limited registration to cater for the installation of smaller capacity appliances (such as in boats or caravans).	<i>Registration as a craftsman plumber, gasfitter or drainlayer</i> (a) no reduction in skill leakage. Protects existing public safety assurance standard. (b) eliminates two stage registration process. Risks disputes over accreditation. Requires ongoing monitoring of standards of accredited programmes. (c) reduces gap between training course and completion of examination requirement(s). Level of skill leakage yet to be ascertained. (d) provides fallback to (b) or (c) above. (e) avoids excessive qualification requirements for a defined level of installation size.

<i>Registration of non-apprentices</i>	<i>Registration of non-apprentices</i>
<p>(a) allow impacted persons to apply to work under an exemption.</p> <p>(b) develop a training package for those who have not undergone formal training.</p> <p>(c) create a new (“Class C” registration for those who have attained National Certificate but not passed the qualifying examination.</p> <p>(d) allow such persons to work under the oversight of a licensed person but not necessarily in the presence of the supervising person.</p>	<p>(a) effectively perpetuates status quo with neutral impacts on consumers, employees and employers.</p> <p>(b) adds costs to employers, consumers and training providers but gives some assurance of increased skills and awareness of all persons working in the industry.</p> <p>(c) recognises training completed. Enhances status of impacted persons. No significant changes in costs to any party.</p> <p>(d) avoids excessive supervision cost while retaining ultimate responsibility of the authorised supervisor.</p>

Problem - Absence of competency based licensing	
Options (preferred is highlighted)	Impact Analysis (for each option)
<p>(a) introduce a formal Competence Based Licensing (CBL) regime for plumbing and drainlaying consistent with that applying to gasfitting.</p> <p>(b) introduce a CBL system but do not apply the auditing system that exists for gasfitting.</p>	<p>(a) retains currency of technical competency in line with technological development. Adds cost of auditing.</p> <p>(b) avoids cost of auditing.</p>

Problem - Little alignment with Australia	
Options (preferred is highlighted)	Impact Analysis (for each option)
<p>(a) align with Australia and introduce new and comparable classes of registration.</p> <p>(b) retain independent classification system.</p>	<p>(a) potential for ongoing confusion and cost, offset by greater ease of transfer of skills and activity across the Tasman.</p> <p>(b) avoids confusion as New Zealand industry seeks to become familiar with new scope and titles of registration categories.</p>

Problem - Lack of clarity around criteria for monitoring employer licenses	
Options (preferred is highlighted)	Impact Analysis (for each option)
<p>(a) provide guidance to those seeking an employer licence around what they must do to qualify.</p> <p>(b) remove clause 6A(5) of the regulations that require accreditation to a qualification assurance standard.</p> <p>(c) clarify that accreditation is an alternative to, not an addition to, requirements for licensing.</p> <p>(d) clarify that an “approved person” must hold a Joint Accreditation System of Australia and New Zealand (JASANZ) qualification.</p>	<p>(a) will require the development of appropriate information materials and a means to ensure they are accessible to those who need them</p> <p>(b) reduces costs to employers but may also reduce effective monitoring</p> <p>(c) enables employers to choose most cost effective way of securing a licence</p> <p>(d) ensures the quality of employer license audits with little to no additional cost (existing employer licence holders already use JASANZ qualified auditors).</p>

Problem - The “Gas Inspector’s” role is outdated	
Options (preferred is highlighted)	Impact Analysis (for each option)
(a) retain the category. (b) delete the category.	(a) provides some flexibility and grandparents existing inspection capacity. (b) simplifies regulatory regime.

Summary of expected net impact

Government

26. Net benefit - No new costs for Government are expected. Benefits include:

- greater assurance of practitioner skill leading to reduced likelihood of future weathertightness claims
- increased monitoring capabilities which will provide greater assurance of Board and regulation performance.

Industry

27. Net cost – Introduction of competence based licensing will impose cost on practitioners. Benefits include:

- increased practitioner skill
- a greater availability of information from the Board.

The Board

28. Net cost – Introduction of increased reporting requirements will require the Board to improve existing administrative arrangements (estimated cost \$600,000). It will also impose ongoing costs on the Board. Benefits include greater information provision to facilitate Board decision making and increased efficiency and effectiveness in organisational operation.

Consumers

29. Net benefit – Cost implications for individual practitioners are expected to be minimal. In addition, these costs will be spread across clients resulting in minimal, if any cost increases to consumers. Benefits include:

- Greater assurance of practitioner skill leading to reduced likelihood of weathertightness problems and other more minor problems associated with practitioner workmanship
- Greater accountability of practitioners through increased ability to access information about practitioners from the Board.

Risk Assessment

30. There are no significant risks associated with the proposed regulation.

Impact on the stock of regulation

31. There is no impact on the stock of regulation given the Plumbers, Gasfitters and Drainlayers Act 1976 will be fully repealed when the Plumbers, Gasfitters and Drainlayers Act 2006 is enacted.

Implementation and review

32. A number of factors need to be taken into account in transiting from the 1976 to the 2006 Act. These include transiting existing registrations and licenses to the new categories; catering for persons progressing through the 5 year limited certificate provision; and developing competencies and monitoring regimes required for accrediting programmes that will lead to registration without further examination by the Board.
33. The Board has begun work required to ensure the 2006 Act can take effect on 1 April 2010. This will coincide with the Board's annual license renewal round. To date the Board intends to spend \$600,000 on upgrading information technology, employing staff to deal with the additional requirements of the Act and renting necessary office space to accommodate the additional staff.
34. Industry has been kept well informed of the pending Act via board newsletters and the consultation road shows undertaken during the development of the Board's recommendations.
35. The Act has provision for it to be reviewed in three years from the date of commencement, anticipated to be 1 April 2010.

Consultation

36. To prepare this paper I have consulted with the Ministry of Economic Development, the Department of Labour, the Ministry of Justice, the Department of Prime Minister and Cabinet, the Ministry of Health, the Ministry of Education, the Tertiary Education Commission and the New Zealand Qualifications Authority.
37. In addition, before the Act can come into force the following matters must be consulted on. These include:
 - classes of registration and registration criteria
 - the criteria an employer must meet before they may uplift an employer license.
 - the criteria by which the Register of practitioners may be accessed and searched by the public.
38. The Board and the Department undertook joint consultation on the matters outlined above as follows:
 - Two workshops were held with key stakeholders (including industry associations, key government agencies and industry training providers) to assist in the formulation of the initial proposals for consultation.
 - Thirteen workshops were publicly notified and were held around New Zealand with 642 individuals attending.
 - A consultation document as released and received 1700 submissions.
39. Submitters were genuinely appreciative of the lengths the Board and the Department went to engage and seek their views.
40. Analysis of the feedback showed notable polarisation within the industry in respect of the number of registration classes and practitioner titles. On questions relating to proposals to deal with the Board's registration examination failure rate the industry was overwhelmingly in favour of the Board's suggested solutions.
41. On questions where the outcome of consultation was clear the Board accepted the views of submitters. On questions where the outcome of consultation was not clear the Board considered the views expressed in consultation and made a decision. The Board is confident that it will be able to satisfactorily articulate these decisions to stakeholders.