

24 June 2005

Energy Safety Review Bill: Background information

Contents

Purpose of this paper	3
Overview	3
Structure of the Bill	4
Explanatory note	4
The Bill	4
How to read the Bill	5
Explanation of the amendments proposed by the Bill	5
Restrictions on doing work	5
Licensing in the electricity generation, transmission and distribution sectors	6
Boards' powers to inspect and test work	6
Worker licensing	6
Employer licensing	7
Registers	7
Licensing Boards	7
Certification of work	8
Disciplinary provisions	8
Offence provisions	8
Safety Management Systems	9
Accident notification	9
Special powers of the Secretary	9
Other gas matters	9
Definitions	10
Transitional arrangements	10
Amendments to Ministry of Energy (Abolition) Act 1989	10
The legislative process	11
Transfer of responsibility for the Plumbers, Gasfitters, and Drainlayers Act	12
Process	12
ANNEX I: Questions and Answers	13
Licensing and Competency	13
1. <i>What will be the nature of the occupational regulation regime for electrical work, plumbing, gasfitting and drainlaying?</i>	13
2. <i>Why "competency-based licensing"?</i>	13
3. <i>What are the different licence categories?</i>	13
4. <i>Will workers still require registration?</i>	13
5. <i>Will workers have to start all over again if their licence lapses?</i>	14
6. <i>Isn't Registration a qualification that cannot be taken away?</i>	14
7. <i>Will there be any costs to licensed workers as a result of competency-based licensing?</i> ..	14
Complaints	14
8. <i>How will the electricity complaints process be improved?</i>	14
9. <i>How will the plumber, gasfitter, and drainlayer complaints process be improved?</i>	14
The Licensing Boards (Electrical Workers Registration Board and the Plumbers, Gasfitters, and Drainlayers Board)	15
10. <i>Will the existing Boards continue?</i>	15
11. <i>Does the Bill allow for greater co-operation between the Boards?</i>	15
Safety Management Systems and Employer Licences	15
12. <i>What are safety management systems and employer licences?</i>	15
Legislative Duplication with the Health and Safety in Employment Act	15
13. <i>What are some areas of legislative duplication that are being removed?</i>	15
Process and timing	16
14. <i>Why is a new Plumbers, Gasfitters, and Drainlayers Act proposed?</i>	16

15.	<i>When will the changes under the Bill come into effect?</i>	16
	Transfer of responsibility for the Plumbers, Gasfitters, and Drainlayers Act	16
16.	<i>Why is the administration of the Plumbers, Gasfitters, and Drainlayers Act to be transferred to the Department of Building and Housing?</i>	16
17.	<i>Does the transfer from the Ministry of Health mean that health is no longer important? ..</i>	16

Purpose of this paper

The purpose of this paper is to provide background information on the changes proposed in the Energy Sector Review Bill. The paper also explains a decision to transfer responsibility for the Plumbers, Gasfitters, and Drainlayers Act from the Ministry of Health to the Department of Building and Housing.

Overview

The purpose of the Energy Safety Review Bill ("ESRB") is to improve the electricity and gas safety regimes to effectively protect members of the public and property, and to improve the occupational regulation of electrical workers, gasfitters, plumbers and drainlayers.

The Bill implements decisions based on the *EnergySafe* Working Party recommendations made in 2001. It represents an ongoing commitment by government to the safe delivery and use of electricity and gas. A number of the *EnergySafe* decisions - in particular, competency-based licensing – have also been adopted for the plumbing and drainlaying regimes, recognising that Health objectives are also of vital importance to government.

Features of the Bill include:

- enabling the Electrical Workers Licensing Board and the Plumbers, Gasfitters, and Drainlayers Board (the Boards which have responsibility for occupational regulation) to define licence categories and determine competence standards;
- moving from a registration plus licensing system to a licensing system based on on-going competency assurance administered by the relevant Boards;
- enabling the public to easily recognise a licensed worker by way of publicly available registers, in line with the licensing scheme for building practitioners under the Building Act 2004;
- the bill providing for improved processes for handling complaints against licensed workers that are co-ordinated, fair and transparent;
- requiring every owner of an electricity or gas supply system to implement and maintain a safety management system to ensure there is no significant risk of serious harm to the public or significant damage to property; and
- removing areas of legislative duplication with the Health and Safety in Employment Act (in particular, duplication of accident notification requirements) that weaken the effectiveness of the safety regimes for electricity and gas.

The Bill also proposes amendments to offence and fine provisions (including the introduction of an "instant fine" regime), and improvements to the powers of the Chief Executive of the Ministry of Economic Development to deal with safety concerns.

The Bill is available to download at no cost, in plain text format, at <http://www.knowledge-basket.co.nz/gpprint/docs/welcome.html>. (Search for "Energy Safety Review Bill".) Alternatively it can be purchased from Legislation Direct (<http://www.legislationdirect.co.nz/contact.shtml>) at \$35 for a pdf file or \$6.85 + \$5 freight for a printed copy. Printed copies are available from Bennetts Government Bookshops.

Structure of the Bill

Explanatory note

The Bill commences with an explanatory note, which comprises:

- a statement of the general policy,
- a clause by clause analysis of the Bill,
- the regulatory impact and compliance cost statement of July 2001, which assesses the decision of 2001 on which the Bill is based, and
- the regulatory impact and compliance cost statement of May 2005, which assesses subsequent decisions of 2005 on which the Bill is based.

The Bill

The Bill will:

- amend the Electricity Act 1992 *(Part 1)*
- amend the Gas Act 1992 *(Part 2)*
- amend the Health and Safety in Employment Act 1992 *(Part 3)*
- amend the Ministry of Energy Abolition Act 1989 *(Part 4)*
- replace the Plumbers, Gasfitters, and Drainlayers Act (PGDA) 1976. *(Parts 5 to 8)*

The amendments to the **Electricity Act** (EA) are primarily concerned with:

- matters of electrical health and safety and
- the regulation of electrical workers. *(clause 5)*

The amendments to the **Gas Act** (GA) are primarily concerned with:

- matters of gas related health and safety *(clause 42)*

The new **PGDA** is primarily concerned with:

- the regulation of gas workers *(clause 60)*
- the regulation of plumbers *(clause 60)*
- the regulation of drainlayers. *(clause 60)*

Thus the amendments to the Gas Act and the PGDA cover between them (and essentially replicate) for gas the matters addressed by the Electricity Act. The PGDA additionally covers the regulations of plumbers and drainlayers. The PGDA is to be replaced by a new Act because many of the sections require amendment. However, most of the principles in the 1976 Act remain unchanged.

The amendments to **the Health and Safety in Employment Act**

- mirror for general workplace health and safety the accident notification amendments in the Electricity and Gas Acts *(clauses 56 and 57)*

The amendments to the **Ministry of Energy (Abolition) Act**

- cover the application of levy monies. *(clause 59)*

How to read the Bill

The Bill contains 218 clauses.

Apart from the first 4 preliminary clauses, each clause in parts 1 to 4 identifies text to be omitted from or inserted into the principal Act (i.e. the Electricity Act 1992, etc). Text to be omitted or inserted is identified in quotes.

Some clauses, e.g. clause 12, identify large blocks of text to be inserted. Clause 12 runs for 46 pages and inserts new sections 74 to 147Y into the Electricity Act. In such cases it is important to note the use of quotations to identify text that is a new section in the principal Act.

Clauses in parts 5 to 8 of the Bill contain text that will, following the passage of the Bill, be separated out to constitute a new Act in place of the Plumbers, Gasfitters, and Drainlayers Act 1976 (which is to be repealed by clause 218).

The Bill needs to be read in conjunction with the Principal Acts that it amends or replaces.

Explanation of the amendments proposed by the Bill

(Note: minor and consequential amendments are not included.)

Restrictions on doing work

(EA: clause 12; PGDA: clauses 64 to 79)

Broadly, the Bill continues the existing requirements that a person must not do prescribed electrical work, gasfitting, sanitary plumbing or drainlaying unless licensed or covered by a specific exemption.

The existing exemptions are continued for:

- work done under supervision,
- domestic electrical work and plumbing in some situations,
- maintenance, by the owner, of domestic appliances.

The Bill does not carry over the existing exemptions for tradespersons doing electrical and plumbing work. The Bill provides instead that the licensing Boards will have the flexibility to establish special licences for such work. The existing exemption for gasfitting on installations having a capacity of over 60,000 MJ/hour, section 57(3) of the 1976 Act, is also not carried over (refer to comment on employer licences).

Some particular blanket exemptions (some of which are currently in regulations under the Electricity Act) that are not carried over are:

- for persons who are not working for payment or reward (must currently be registered but need not be licensed).

- for "qualified engineers" - this exemption is similarly considered to be anomalous with "current competence" requirements.
- for work in experimental testing, demonstration, teaching or research situations, because there is no inherent reason why such circumstances should be any less dangerous than similar work under other circumstances, or that persons doing such work are inherently competent. The Bill provides for such situations to be addressed by requiring those doing or supervising the work to be appropriately licensed, or working under an employer licence, or operating under a different legislative environment that would enable the Board to grant an exemption as described above.

The Bill provides however that the licensing Boards will be able to provide exemptions from licensing requirements, for example, to persons who have established competence under other legislation.

Licensing in the electricity generation, transmission and distribution sectors

One of the government decisions was to remove the requirement for workers in the electricity generation, transmission, and distribution sectors to be licensed once suitable competency controls under the Health and Safety in Employment Act are in place.

An important pre-condition to implementing this decision is that there must first be suitable competency controls under the Health and Safety in Employment Act. At this stage it has been accepted that this pre-condition has not been achieved and this matter is thus not included in the Bill.

This decision can however be implemented later, once there is adequate assurance that the pre-condition has been met, by regulation rather than by amending the Act.

Boards' powers to inspect and test work

(EA: clause 12, new sections 80 and 81, GA: existing sections 48 and 49)

The Bill carries over provisions for the testing, certification, and inspection of prescribed electrical work and gasfitting, and provisions that confer a power of entry to premises on persons appointed by the respective Boards to inspect and test prescribed electrical work and gasfitting on those premises.

Worker licensing

(EA: clause 12; PGDA: clauses 80 to 104)

The Bill replaces the current requirements for both registration and licensing with licensing only regimes. Particular differences from the existing regimes are:

- the Boards are to designate classes of licence that may be issued, instead of having them specified in the Acts, and to specify the work that may be done under those licences *(EA new sections 82 and 83; PGDA clauses 82 and 83)*;
- the Boards are to—
 - prescribe the minimum standards for licensing;
 - prescribe terms and conditions subject to which licences are issued and renewed (including, as a new provision, conditions that require the completion of a competence programme); and
 - prescribe requirements relating to competent and safe work practices and the testing of those practices. *(EA new sections 84 and 85)*
- the Boards may withhold a licence if there is reason to believe that the individual may endanger the health or safety of members of the public: *(EA new section 87)*

- the Boards may impose terms and conditions on (EA new section 93), and grant exemptions from licensing requirements and conditions (EA new section 94).
- the Boards may issue certificates that confirm that a person meets the applicable minimum standards for licensing (EA new section 105; PGDA clause 103). Such certificates do not confer any power to the holder to do work requiring a licence, but they do give assurance to a person who does not wish to pay for a licence and start practising immediately that, at the time of issue, the licensing requirements have been met.

Licences must have a term of not more than 2 years (the term is currently not more than 5 years under the Electricity Act, and one year under the PGDA).

The Electrical Workers Licensing Board is given the power to delegate to the Plumbers, Gasfitters, and Drainlayers Board the authority to issue licences to do electrical work, and the Plumbers, Gasfitters, and Drainlayers Board is given an equivalent power in relation to plumbing, gasfitting and drainlaying licences (EA new section 106; PGDA clause 104).

Employer licensing

(EA: clause 12, new sections 107 to 115; PGDA: clause 105 to 112)

The existing employer licensing regime for electrical work and gasfitting is retained, as an alternative to worker licensing for those employers who are able to maintain a system of operation that ensures employees are competent and adequately supervised. Differences from the existing regimes are that:

- employer licences are to be issued by the Boards rather than the Secretary,
- employer licence requirements must be treated by the Boards as satisfied if a person approved by regulations certifies the compliance of the system of operation:
- a greater range of sanctions is available in the event that an employer licensee has failed to comply with any term or condition of the licence, etc.

Registers

(EA: clause 12, new sections 116 to 133; PGDA: clauses 113 to 130)

As at present, the Boards are required to retain registers of all current or former licensed persons and employer licence holders, to enable members of the public to access information about licence holders and to facilitate the administrative and other processes.

The register must be open for public inspection, except that some of the details may be restricted.

The registers must preserve all of the information on persons registered under the existing Acts, whether or not they are licensed, but the inclusion of this information does not confer any rights or privileges.

Licensing Boards

(EA: clauses 13 to 20; PGDA: clauses 175 to 192)

The existing Electrical Workers Registration Board and Plumbers, Gasfitters, and Drainlayers Board continue, except that the Electrical Workers Registration Board will be re-named the Electrical Workers Licensing Board to reflect the move to licensing only regimes.

The existing governance structures of the Boards also continue unchanged, and the term of office of existing Board members will not be affected by the Bill.

Certification of work

The existing self-certification regime is to be made more universal and more readily identifiable. However the details are to be addressed in regulations (as they are at present).

A particular obligation in relation to gas suppliers is that relating to the sighting of certification documentation before gas is supplied. The *EnergySafe* recommendation was that this obligation should apply only to new installations and not to modifications to existing installations (because of the impracticability of meeting the obligation). Adoption of this amendment will bring the gas regime into line with that for electrical installations. It had been expected that this change would require an amendment to Section 47(3) of the Gas Act. However this has been determined to be not necessary; the *EnergySafe* recommendation will be achieved through an amendment to regulation 26 of the Gas Regulations.

Disciplinary provisions

(EA: clause 12, new sections 134 to 147Y; PGDA: clauses 131 to 162)

The Bill revises disciplinary provisions applying to licensed persons (including provisional licence holders). In particular:

- Complaints that are frivolous or vexatious need not be progressed *(EA new section 136 ; PGDA clause 136)*,
- Otherwise, an investigator must be appointed to investigate complaints and prosecute them before the relevant Board *(EA new section 147K; PGDA clause 156)*. The appointment is to be made by the Secretary under the Electricity Act, and by the Registrar under the PGDA,
- Others may be appointed to assist the investigator *(EA new section 147M; PGDA clause 158)*,
- Investigators have certain new powers to investigate complaints, including the power to enter premises to inspect and test any prescribed electrical work on those premises, and the power to require the supply of information or documents *(EA new sections 139 to 145; PGDA clauses 136 to 142)*,
- Complaints Assessment Committees under the Electricity Act are discontinued,
- The Boards may, if necessary to protect the safety of members of the public, order the interim suspension of a licence or the interim disqualification of a person. This is a new provision for the PGDA *(EA new sections 147A to 147D; PGDA clauses 145 to 148)*.

The disciplinary powers of the Boards are broadly similar to the powers under the existing Acts.

Offence provisions

(EA: clauses 22 to 24; GA: clauses 51 to 54; PGDA: clauses 163 to 174)

Offence provisions relating to electricity and gas supply, use and work, including maximum fines, have, as appropriate, been aligned with similar provisions under the Health and Safety in Employment Act. The maximum fine for the most serious offences has been raised to a fine of not more than \$100,000 in the case of an individual, or \$500,000 in the case of a body corporate *(EA new section 163C, GA clause 51)*.

The maximum fines relating to plumbing and drainlaying are set lower than the maximum fines relating to gasfitting and electrical work.

The time for laying an information for an offence is set at 5 years after the time when the matter of the information arose, increased from 3 years for the Electricity Act and PGDA, and six months for the Gas Act *(EA clause 23, GA new section 57A; PGDA clause 169)*.

A new infringement offence regime is introduced for offences against various sections of the Act and for breach of any regulation that is prescribed as an infringement offence (*EA clause 24, GA clause 53; PGDA clause clauses 170 to 174*).

Safety Management Systems

(EA: clause 11 and GA: clause 48)

Owners of electricity and gas supply systems will be required to implement and maintain safety management systems that ensure the electricity or gas supply system does not present a significant risk of—

- serious electrical harm to any member of the public; or
- significant damage to any property.

Note that the original decision was that safety management systems be required only for areas accessible to the public or that may place the public at risk. However on further consideration it was decided that the safety management system should be required of all parts of the electricity of gas supply system to ensure that the question of whether the public is placed at risk is adequately assessed. Risk of property damage has also been added as a consideration.

The precise scope and nature of the safety management systems required will be specified in regulations. (Note that the Bill allows installations, fittings and appliances to be included within the scope of the supply systems, but this is only to ensure some flexibility in defining the boundary.)

Accident notification

(EA Clauses 8 and 9, GA Clauses 45 and 46)

The Electricity Act, Gas Act and HSE Act all require certain accidents to be notified. The Bill allows notification to either of the administering agencies, Energy Safety Service and Department of Labour, as fulfilment of that obligation. This means that industry will no longer have to notify an accident to more than one agency.

Special powers of the Secretary

(EA: Clause 7, GA: Clause 44)

The Electricity and Gas Acts give the Secretary special powers (which are delegated to the Energy Safety Service) to do things, or require any person to refrain from doing things as necessary to remove or minimise a danger or potential danger. The Bill sets out three amendments:

- The powers are currently limited to specific places. The Bill will remove this restriction.
- The Bill will give power to require persons to do things as well as refrain from doing things.
- The Bill also gives explicit power to require the production of documents for inspection, and to require the supply of information.

These amendments are to address identified areas where the powers have inhibited the Secretary's ability to address safety concerns.

Other gas matters

The original *EnergySafe* recommendations addressed a number of specific matters in relation to gas quality and gas detection. These are not covered in the Bill but will be addressed through regulations.

Definitions

(EA: clause 6; GA clause 43; PGDA: clause 61)

The Bill includes new definitions of **serious harm**, introduced into both the Electricity Act and the Gas Act to align with the HSE Act, and significant **property damage**. The detail of these definitions is to be specified in regulations. The intention is that "serious harm" be based on the definition in the HSE Act, but with modifications to address specific issues relevant to electricity and gas respectively. Note also that the definition of "serious harm" in the HSE Act is separately proposed to be amended and, depending on timing, this may provide further opportunity to better align the definitions.

The definition of **prescribed electrical work** (PEW) is extended in the Electricity Act to allow for the inclusion of design, testing, inspection and supervision. However the specific scope – and therefore the range of work subject to the licensing regime - will continue to be prescribed in regulations as at present. The definition of **gasfitting**, which is the equivalent for gasfitters to the term PEW for electrical workers, is to be structured in the same way as prescribed electrical work, with specific details in regulations. (Note that although the Bill allows for PEW and gasfitting to include design, testing, inspection and supervision, it is expected that the regulations that prescribe PEW and gasfitting will not encompass all aspects of design, testing, inspection and supervision. Similarly the proposed amendment of the definition of gasfitting to encompass distribution systems is only to allow some flexibility in defining the boundary to ensure compatibility with the scope of safety management systems.)

Thus the extension of work subject to the gasfitting licensing regime, to encompass work on fixed installations supplied from small LPG cylinders (*as agreed under the EnergySafe programme*) will be addressed in regulations under the PGDA.

Finally, the definition of **distribution system** in the Gas Act is amended to refer at the downstream end to the "point of supply", and there is provision for **point of supply** to be specified in regulations. This allows the downstream end of gas distribution systems to follow the same style as the equivalent "works" under the Electricity Act rather than have it linked to the meter.

Transitional arrangements

(EA: clauses 2, 28 to 38; GA: clause 2; PGDA: clauses 2, 206 to 216)

The Bill provides for different matters to come into force at different times after the Bill receives the Royal Assent, to allow preparation time for the establishment of the new licensing provisions, safety management systems, etc.

Amendments to Ministry of Energy (Abolition) Act 1989

(Clause 59)

An amendment to the Ministry of Energy (Abolition) Act 1989 will allow for electricity and gas levy money to be applied by the Department of Labour, in addition to the Ministry responsible for the administration of the Act.

The legislative process

Figure 1 shows the steps to be taken in the consideration of the Energy Sector Review Bill.

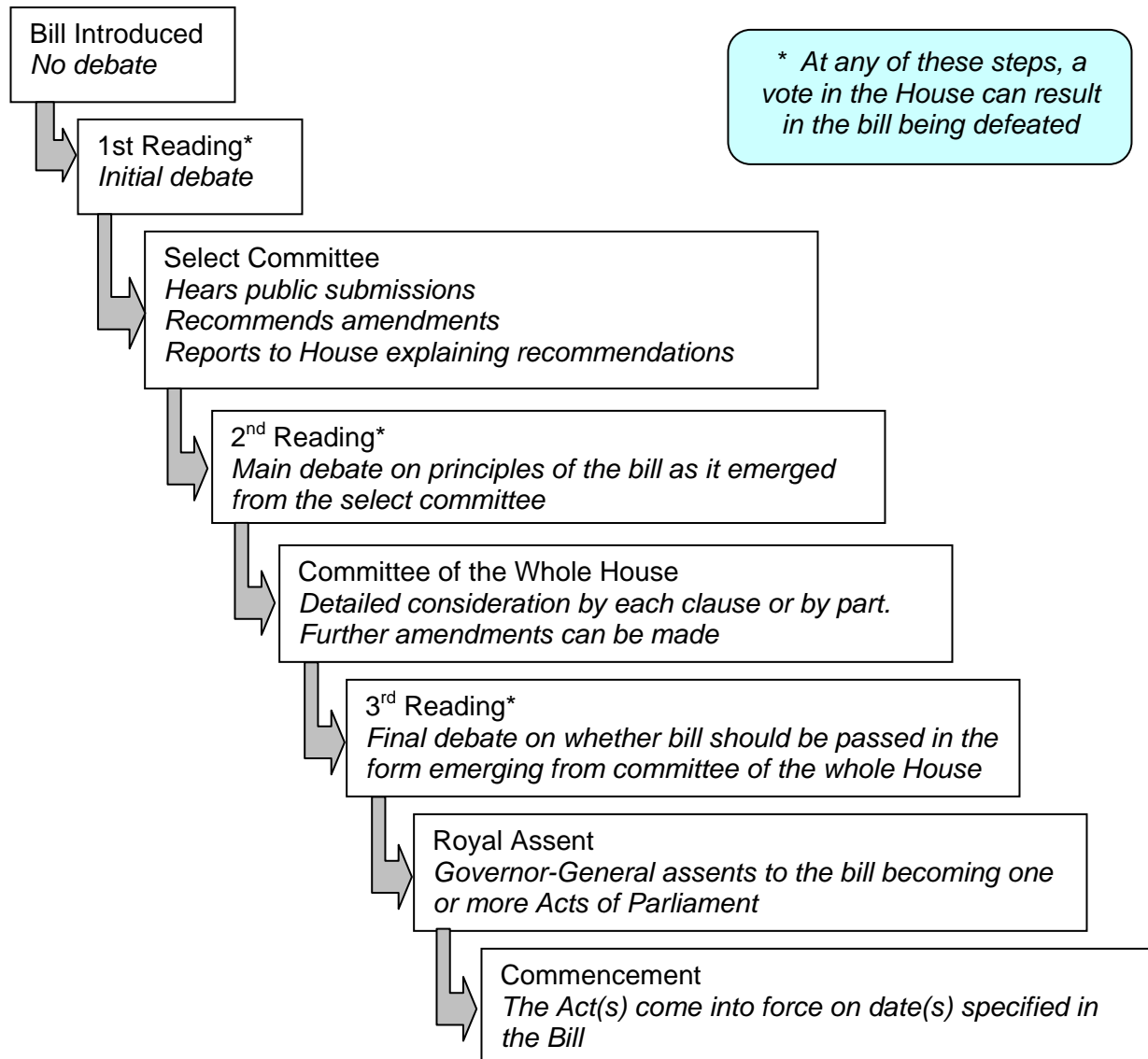


Figure 1: How Parliament Makes a Law

The Bill was introduced to Parliament on 1 June 2005, and the First Reading was on 21 June. The Bill has now been referred to the Commerce Select Committee for consideration. Select Committees usually call for public submissions by advertising in the public notices columns of newspapers. Information on the legislative process and select committees, including how to make submissions, is available from the website [//www.clerk.parliament.govt.nz/Publications/Other/](http://www.clerk.parliament.govt.nz/Publications/Other/).

Note also that there are some matters in the Bill that will require the development of regulations. Prior to any regulations being determined there will be consultation with affected parties.

Transfer of responsibility for the Plumbers, Gasfitters, and Drainlayers Act

Although not addressed in the Bill, government has separately decided to transfer responsibility for the Plumbers, Gasfitters, and Drainlayers Act from the Ministry of Health to the Department of Building and Housing. The appropriate timing of the transfer, and transition issues, have yet to be determined.

Plumbing and drainlaying have historically been driven by health objectives; clean water supply and effective waste disposal have clearly been major contributors to improved standards of health, and health objectives remain paramount.

The Ministry of Health has a continuing interest in the improvement of health outcomes through sanitation, but it is not the only government agency with health related objectives. However the level at which the Ministry of Health is involved in sanitation related health outcomes has changed. Historically the main focus of public health activity was through the direct control of the workforce. The Ministry no longer has the technical expertise or capacity to continue to be involved at that level. Furthermore, changes in technology and the determinants of health mean that there is less need for direct intervention by the Ministry of Health.

The Building Act 2004 clearly states health and safety amongst its purposes, and is the legislation that controls plumbing and drainlaying outcomes (i.e. the technical specifications of plumbing and drainage systems to achieve the health objectives). Plumbers and drainlayers have a substantial involvement with buildings; under current requirements, local authorities are required under the Building Act 2004 to be satisfied on reasonable grounds that plumbing and drainlaying work is compliant.

This transfer is consistent with the overall objective of the Department of Building and Housing having oversight of various occupational licensing regimes related to building and housing. Responsibility for electrical worker licensing is to transfer to the Department in February 2006, and the transfer of responsibility for plumber, gasfitter and drainlayer licensing will assist the interface between these two Boards.

The transfer will not impact on the Board's responsibilities or governance arrangements. The existing roles of the Board, including its body corporate status, will remain and are included in the Energy Safety Review Bill.

Process

The process for the transfer of responsibility for the Plumbers, Gasfitters, and Drainlayers Act to the Department of Building and Housing is independent of the Parliamentary process for the Energy Safety Review Bill.

While it has been important for planning purposes to decide now that the transfer is to be made, it is equally important to ensure that the transfer be implemented smoothly and with minimal disruption. For this reason, the Department of Building and Housing will be working in consultation with the Ministry of Health and the Ministry of Economic Development to consider the appropriate timing of the transfer and transition issues. These matters are to be reported to government by 31 October 2005.

Ministry of Economic Development

Ministry of Health

ANNEX 1: Questions and Answers

Licensing and Competency

1. *What will be the nature of the occupational regulation regime for electrical work, plumbing, gasfitting and drainlaying?*

Broadly, the Bill continues the existing requirements that a person must not do prescribed electrical work, gasfitting, sanitary plumbing or drainlaying unless licensed or covered by a specific exemption. Particular changes are:

- The existing registration plus licence regime will be replaced by a competency-based licence regime;
- The Boards will be able to determine appropriate categories of licence;
- Some exemptions will be replaced by the requirement to be licensed, but the licence can be in a category limited to just the particular skills required (e.g. to ensure gasfitters are competent to do the plumbing associated with fixing a gas water heater).

2. *Why “competency-based licensing”?*

Competency-based licensing enhances consumer confidence in employing electrical workers, gasfitters, plumbers and drainlayers.

Competency-based licensing involves making sure that before a worker is issued a new licence they have updated their competence in areas such as new equipment and changes in Standards and regulations. It is no longer sufficient to assume that qualifications gained as an apprentice are adequate for a life-time of work in the trade.

Many people do already regularly update their skills; competency-based licensing is to ensure that every licensed worker does that.

The style and structure of the regime is broadly consistent with that being introduced for licensed building practitioners under the Building Act 2004. This consistency will considerably aid clarity for consumers.

3. *What are the different licence categories?*

With the stronger emphasis on workers being competent in the areas in which they are licensed, it is necessary to provide more flexibility in matching competencies and work authorised under a particular licence category. It will save workers from having to update competencies that they don't require in their work. An example of how this works is the "special exemption" provision under section 57(i) of the Plumbers, Gasfitters, and Drainlayers Act 1976, in which the Plumbers, Gasfitters, and Drainlayers Board can authorise a person to do a particular range of gasfitting if the Board is satisfied that the person has the relevant competence for that work. The Bill proposes widening this approach to other licensing situations.

Licence categories will be determined by the Boards in consultation with those who will be substantially affected.

4. *Will workers still require registration?*

No. Holding a licence will be the required qualification and there will be a register of licence holders. The primary objective of occupational regulation is to ensure the competence of workers, to protect the safety of consumers and the public. Registration has previously been the focus for consumers to

gauge worker capability. In fact being registered did not always provide this assurance. Competency-based licensing is a tool for providing the public with clarity and assurance of the current competence of workers.

5. *Will workers have to start all over again if their licence lapses?*

No. The fact that a person has been licensed in the past must also be retained on the Boards' registers. When workers want to obtain a licence after a period out of the trade they will only need to update their competencies since they last held (or were entitled to hold) a licence. The details of how much this will involve have yet to be determined. This work will be done by the Boards in consultation with interested parties.

6. *Isn't Registration a qualification that cannot be taken away?*

The Bill does not "take away" any person's registration. Indeed, it requires the Boards' registers to retain records of all persons who are currently registered, although the inclusion of this information does not confer any rights or privileges. The situation is much the same as that for School Certificate, which is no longer issued but still gives a record of attainment by those who have the Certificate.

The Bill does also provide for the issue of a Certificate to those who meet the applicable minimum standards for licensing. This certificate has the same broad function as Registration, but does not carry the same potential for consumer confusion.

7. *Will there be any costs to licensed workers as a result of competency-based licensing?*

Yes, there will be additional costs for some competency development courses.

The Boards will determine what requirements will have to be met to establish ongoing competence and workers will be free to choose amongst options. Some courses will be free, others not. On balance, after including an allowance for time and the inclusion of free

courses, the extra cost to a person currently undertaking no professional development is estimated to be in the order of \$600, but much less for those already doing some such courses.

Complaints

8. *How will the electricity complaints process be improved?*

Based on experience with the existing regime that provides for consumer complaints to the Chief Executive of the Department in charge of electrical worker licensing, proposed changes are that:

- Frivolous or vexatious complaints need not be progressed;
- Role clarity is improved by replacing the complaints assessment committee by an investigator who must investigate the complaint and prosecute it before the Board; and
- Others may be appointed to assist the investigator (this will be particularly helpful in ensuring the appropriate skills and experience are available for the investigation).

9. *How will the plumber, gasfitter, and drainlayer complaints process be improved?*

Based on experience with the existing regime that provides for consumer complaints to the Plumbers, Gasfitters, and Drainlaying Board, proposed changes are that:

- Frivolous or vexatious complaints need not be progressed;
- Others may be appointed to assist the investigator (this will be particularly helpful in ensuring the appropriate skills and experience are available for the investigation);
- The Board be given the power to issue an interim suspension while a complaint is being addressed, if considered necessary to protect the safety of members of the public.

The Licensing Boards (Electrical Workers Registration Board and the Plumbers, Gasfitters, and Drainlayers Board)

10. *Will the existing Boards continue?*

Yes. The Bill proposed that the Plumbers, Gasfitters, and Drainlayers Board will continue, although the Electrical Workers Registration Board will be re-named the Electrical Workers Licensing Board to reflect the move to licensing only regimes.

There are also some proposed changes to functions and membership of both Boards, but these are essentially consequential on other amendments – e.g. the Boards' roles in determining licensing categories.

The Bill preserves the roles and structures of the Boards. The Boards are to have sole responsibility for:

- Determining competence requirements for the issue of licences,
- Determining applications for licensing,
- Monitoring competence,
- Taking disciplinary action when necessary, and
- (Plumbers, Gasfitters, and Drainlayers Board only) setting fees associated with the Board's functions.

11. *Does the Bill allow for greater co-operation between the Boards?*

The Bill gives the Plumbers, Gasfitters, and Drainlayers Board the power to delegate to the Electrical Workers Licensing Board the authority to issue licences to do electrical work. The Electrical Workers Licensing Board will be given an equivalent power. The power encompasses the issue of new licences and renewals, competence review, and cancellation and suspension of licence and will be subject to conditions set by the delegating Board.

This will allow, for example, a gasfitter to gain both a licence to do gasfitting and also a

licence to do specified electrical work (e.g.: test electrical controls on gas appliances) from the Plumbers, Gasfitters, and Drainlayers Board. It will be much easier to multi-skill, and considerably improve the service to consumers.

Safety Management Systems and Employer Licences

12. *What are safety management systems and employer licences?*

Employer licences are an alternative to licences for individual workers, and apply wherever prescribed electrical work or gasfitting is done. The Bill proposes that employer licences be issued by the Boards, and generally include conditions such as the type of work they permit and where that work may be done (e.g. they may limit the work to premises owned by the licence holder). Therefore only large employers, such as a steel works or a power generation company, are likely to apply for employer licences.

Safety management systems are to be required for all electricity and gas supply systems. They will require owners of such systems to have in place and follow procedures that ensure that the supply system does not present a significant risk of serious harm to any member of the public; or significant damage to any property. (Details of what they are required to cover will be spelled out in regulations.) Safety management systems cover not just work done, but all aspects of the design, construction, operation, maintenance and decommissioning. There is no licence requirement, but the systems are to be subject to audit.

Legislative Duplication with the Health and Safety in Employment Act

13. *What are some areas of legislative duplication that are being removed?*

Accident notifications are the main area of duplication that will change. Under present legislation, if an accident comes under both the Health and Safety in Employment Act and also

the Electricity Act or Gas Act, it has to be notified to two separate agencies. The Bill proposes simplifying this, so that such accidents will have to be notified to only one agency.

Of the decisions this Bill is based on, one was to remove the requirement for workers in the electricity generation, transmission, and distribution sectors to be licensed once suitable competency controls under the Health and Safety in Employment Act are in place. This decision is not however being implemented at this stage, since it has been accepted that the pre-condition of suitable competency controls under the Health and Safety in Employment Act has not yet been achieved.

Process and timing

14. *Why is a new Plumbers, Gasfitters, and Drainlayers Act proposed?*

The amendments to the Act are so substantial that a new Act is considered the best approach.

15. *When will the changes under the Bill come into effect?*

The Bill provides for different matters to come into force at different times after the Bill receives the Royal Assent, and all licences at the changeover will become deemed licences for the remainder of their term. This will allow preparation time for the establishment of the new licensing provisions, safety management systems, etc.

Actual timing will be determined in consultation with stakeholders.

Transfer of responsibility for the Plumbers, Gasfitters, and Drainlayers Act

16. *Why is the administration of the Plumbers, Gasfitters, and Drainlayers Act to be transferred*

to the Department of Building and Housing?

The decision has been taken as transfer is consistent with the overall objective of the Department of Building and Housing having oversight of various occupational licensing regimes related to building and housing.

Plumbing, gasfitting and drainlaying services are clearly associated with buildings and housing and therefore are an appropriate fit with the Department's objectives.

17. *Does the transfer from the Ministry of Health mean that health is no longer important?*

No. The Building Act clearly states health and safety amongst its purposes, and is the legislation that controls plumbing and drainlaying outcomes (i.e. the technical specifications of plumbing and drainage systems to achieve the health objectives).

The Ministry of Health has administrative responsibility for the regulation of health practitioners, who have little in common with plumbers, gasfitters or drainlayers.

Prior to the 1991 Building Act the regulation of plumbing and drainlaying was covered by the Health Act 1956. That covered such things as drains, septic tanks and other matters relating to plumbing and drainlaying requirements.

Historically the main focus of public health activity was through the direct control of the workforce. The Ministry no longer has the technical expertise or capacity to continue to be involved at that level.

A range of other trades and professions have significant health and safety responsibilities but are not administered in the Ministry of Health.