Plumbers, Gasfitters, and Drainlayers Amendment Bill 2013

Date of Introduction: 11 March 2013
Portfolio: Building and Construction
Select Committee: As at 13 March, 1st Reading not held.

Purpose

The main aim of this Bill is to amend the Plumbers, Gasfitters, and Drainlayers Act 2006 (the Act) to validate a disciplinary levy imposed under that Act between 1 April 2007 and 11 January 2012, and an offences fee prescribed by the Plumbers, Gasfitters, and Drainlayers Board (the Board) since 2012.

The second main aim is to correct the underlying problem by amending the Act to provide the Board with a levy power to fund its function of instituting prosecutions against persons for the breach of any Act or regulation relating to sanitary plumbing, gasfitting, or drainlaying. "The Board had been using part of the disciplinary levy (as payable between 31 July 2010 and 11 January 2012, inclusive) and then the offences fee (as payable from 12 January 2012) to fund this function."\(^1\)

Background

Plumbers, Gasfitters, and Drainlayers Board

The Board protects the health and safety of the public by regulating and ensuring the competency of persons carrying out sanitary plumbing, gasfitting, and drainlaying work. The Board is funded entirely

by fees and levies charged to plumbers, gasfitters and drainlayers registered under the Act. This system is similar to other occupational licensing boards.

This Bill allows the Board to continue to collect offences fees (currently about $600,000 a year) from registered persons for the 2013 licensing year. The disciplinary and offences fees are validated. The effect of this is that the Board cannot be required by registered persons to refund the monies collected by the Board unlawfully.

The issue was raised by the Regulations Review Committee when it was considering the Plumbers, Gasfitters, and Drainlayers Board (Fees) Notice 2010. The Committee considered that the Board had made an unusual or unexpected use of the levy power in Section 143 of the Act as the Board used the disciplinary levy to fund enforcement action against non-registered persons (under Section 137(p) of the Act) and some other costs. Section 143 provides for the Board to set a levy to fund only the costs of complaints and discipline in relation to registered persons. The Regulations Review Committee had raised concerns about earlier fees notices. To avoid any problems with the earlier years subject to those notices, this Bill also validates those fees notices back to 2007.

The Board tried to correct the situation by prescribing an offence fee under Section 142 of the Act. The appropriate fees notice is also validated by the Bill.

**Amounts concerned**

The disciplinary levies validated are:

- from 1 April 2007 to 31 March 2008 (inclusive), $25;
- from 1 April 2008 to 30 July 2010 (inclusive), $50;
- from 31 July 2010 to 11 January 2012 (inclusive), $266.

The offences levies validated are:

- from 12 January 2012 to 16 January 2013 (inclusive), $90;
- from 17 January 2013, $86.

**Main Provisions**

**Extension of purposes for which Board may impose levy**

Section 143 of the Act empowers the Plumbers, Gasfitters, and Drainlayers Board (the Board) to impose on registered plumbers, gasfitters, and drainlayers (registered persons) a disciplinary levy to fund the costs arising out of:

- investigations into allegations or complaints against registered persons; and
- proceedings concerning discipline under Part 3 of the Act.

The Bill empowers the Board to impose a disciplinary and prosecution levy to fund, in addition to the costs listed above, the costs of investigations into, and prosecutions against persons for, the breach of

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2 Ibid.
3 Ibid., p. 3.
any Act or regulation relating to sanitary plumbing, gasfitting, or drainlaying (Part 1, Clause 4(2), substituting Section 143(1) of the Act).

Validation of disciplinary levy and offences fee

The Bill validates a disciplinary levy imposed by the Board and payable or purportedly payable between 1 April 2007 and 11 January 2012 (inclusive) and also validates an offences fee prescribed by the Board and payable or purportedly payable on and from 12 January 2012 (Part 2, Clause 5, inserting New Sections 171A and 171B into the Act).

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