

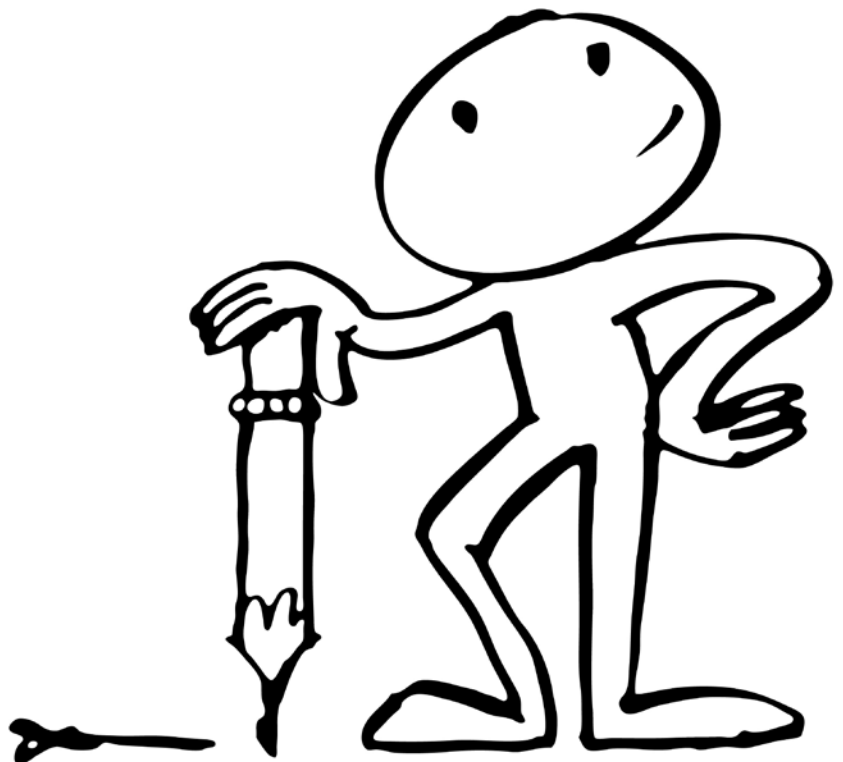


Ministry of Business,
Innovation & Employment



Building & Housing

DEEMING OF REGISTERED PLUMBERS AND GASFITTERS AS LBPs



Background

Registered plumbers and gasfitters do building work that is a necessary consequence of, and ancillary¹ to sanitary plumbing or gasfitting work, such as flashings, penetrations and sealing. Some plumbers also carry out wider roofing work, particularly light steel roofing.

As of 1 March 2012, such ancillary work is RBW if it is carried out on a new build, or the penetration and associated work is greater than 300mm in diameter in relation to an existing building.

Rather than requiring registered plumbers and gasfitters to be licensed as LBPs to do this ancillary work (that they are already licensed to do under the PGD Act), or have this work supervised and signed off by an LBP, the Building (Designation of Building Work Licensing Classes) Order [the Order] deems them to hold the roofing, external plastering and brick/blocklaying licences. Furthermore, the Act expressly forbids them from being able to apply for such licences.



¹ In this section, the term “ancillary work” refers to the work that is both covered by the PGD Act and the RBW provisions of the Building Act, that is, work ancillary to, or a necessary consequence of, sanitary plumbing and gasfitting, such as penetrations through the building envelope for pipework, and the flashing or sealing of those penetrations. The PGD Board considers that this ancillary work is covered by its registration and licensing scheme, and it is able to hear and respond to complaints about this work. Where other RBW-specific criteria are met, this ancillary work is RBW because it involves the external moisture management systems of a building, such as wall or roof cladding.

Problems

However, this 'deeming' provision has resulted in a number of unintended consequences.

- The Act does not enable someone to be granted a 'partial licence'. For example, a roofing LBP holds a roofing licence and can undertake any roofing work within their individual competency. The Order therefore cannot deem registered plumbers and gasfitters to be 'deemed' to hold various licences for the sole purpose of carrying out ancillary work. This means that 'deemed' LBPs can carry out or supervise a much wider range of work than intended.
- The deeming provision raises potential jurisdictional issues between the Building Practitioners Board and the Plumbers, Gasfitters, and Drainlayers Board and potential constraints on what disciplinary action can be taken. For example, if a complaint falls relates to general roofing work, and therefore within the jurisdiction of the Building Practitioners Board, that Board has limited disciplinary powers in that they cannot cancel or suspend the 'deemed' LBP licence, nor can they take any action against the plumbers/ gasfitters licence.
- Specialist roofers who have a specific and recognised qualification in roofing are required to get a roofing licence, while registered plumbers and gasfitters can undertake restricted roofing work based only on their qualification² and registration.
- The carpentry licensing class was not included in the automatic licensing provision, which means that a large proportion of plumbers' and gasfitters' work that is covered by the PGD Act, and is also RBW, still needs to be supervised by a carpentry LBP. This work includes penetrations for pipework through weatherboard cladding, for example.
- The reference to 'registered' rather than 'licensed' plumbers and gasfitters means that a 'deemed' LBP may not be a practicing plumber or gasfitter.
- There is a concern that registered plumbers and gasfitters will carry out or supervise building work, such as bricklaying and blocklaying or external plastering under their 'deemed' licences', for which they have not been assessed as competent, and for which the statutory accountability mechanisms are limited.

2 Where only a portion of the plumbing qualification focuses on roofing.

Addressing the unintended consequences

Ideally, registered plumbers and gasfitters should be able to carry out or supervise work that is covered by the Plumbers, Gasfitters and Drainlayers Act 2006 (PGD Act) – regardless of whether this work is RBW or not.

The legislative mechanisms to achieve this should:

- ensure that RBW, and other critical work such as sanitary plumbing and gasfitting, is carried out or supervised by licensed or registered persons who are accountable to a statutory board;
- ensure that practitioners deemed (or treated) as if they are LBPs, are subjected to the same or greater professional oversight, review and skills maintenance requirements as that provided by the LBP scheme, and
- avoid duplication of oversight and licensing coverage.

On this basis, plumbers and gasfitters who carry out or supervise RBW should be quality assured and accountable to a statutory board under a regulated licensing scheme.



Options Considered but not Preferred

Building and Housing has considered a range of options, as set out in the following table:

Table: Options Considered but not Preferred

Option	Description	Analysis
Option 1 Do Nothing	Continues the status quo	Does not resolve any of the problems identified above.
Option 2 Remove 'deeming' provision	Plumbers and gasfitters who carry out work (such as penetrations and flashings) as part of their day to day work would need to become LBPs (roofing, external plastering, brick/blocklaying or carpentry depending on the work they are undertaking) in order to continue to do this work.	Plumbers and gasfitters would find it difficult to be licensed as they would need to meet the applicable licensing competencies. Obtaining licences would be costly if several licences need to be applied for. This option would still result in jurisdictional issues between the two Boards as ancillary work would be covered by both Boards.
Option 3 Remove the deeming provision in relation to the external plastering and brick/blocklaying licence but retain for the roofing licence	Plumbers and gasfitters would still be deemed to be Roofing LBPs but they would need to obtain other licences if they do penetrations through brick and blockwork, and other types of external cladding.	Reflects that many plumbers do roofing work, and hold roofing qualifications, and as such, should be deemed to hold a roofing licence. Still limits the ability of the Building Practitioners Board to discipline a deemed roofer who does shoddy roofing work. Plumbers and gasfitters who do penetrations and flashings through external wall cladding and brick/blocks would find it difficult to obtain licences to do so. Obtaining these licences would be costly if more than one is required. Plumbers and gasfitters are still deemed to hold a roofing licence with all areas of practice, including ones they may not be competent in.

Option	Description	Analysis
<p>Option 4</p> <p>Remove the deeming provision in relation to the external plastering and brick/blocklaying licence but retain for the roofing licence – but only with the area of practice for profiled metal roof/wall cladding.</p>	<p>Similar to previous option but narrows the area of practice held under the 'deemed' licence to profiled metal roof/wall cladding.</p>	<p>Reflects that many plumbers do roofing work, and hold roofing qualifications in lightweight metal roofing, and as such, should be deemed to hold a roofing licence.</p> <p>Still limits the ability of the BPB to discipline a deemed roofer who does shoddy roofing work.</p> <p>Plumbers and gasfitters who do penetrations and flashings through external wall cladding and brick/blocks would find it difficult to obtain licences to do so. Obtaining these licences would be costly if more than one is required.</p> <p>Plumbers and gasfitters who are competent in other types of roofing would not have an area of practice reflecting this.</p>
<p>Option 5</p> <p>Limit the deeming provision to ancillary work such as penetrations and flashings</p>	<p>Deem plumbers and gasfitters to hold a roofing, external plastering, brick/blocklayer, and carpentry licence but only if they are carrying out ancillary work such as penetrations and flashings.</p>	<p>Plumbers and gasfitters who just carry out ancillary work that is RBW could continue to do so.</p> <p>Plumbers and gasfitters want to do general roofing work would need to obtain a roofing licence.</p> <p>Overcomes the problem of not being able to issue a 'partial licence'.</p> <p>Lack of legal certainty whether this is possible under the current wording of the Act – would require an amendment to the Act if it raises vires issues.</p> <p>Still result in jurisdictional issues between the two Boards as ancillary work would be covered by both Boards.</p>

Preferred Option

In the end, the preferred option is to:

- amend the Building (Definition of Restricted Building Work) Order 2011 to exempt ancillary work carried out by licensed plumbers and gasfitters from being restricted building work, and
- amend the Building (Designation of Building Work Licensing Classes) Order 2010 to remove the 'deeming' provision for registered plumbers and gasfitters, and
- provide a transition period of six months to enable licensed plumbers and gasfitters who wish to carry out general roofing work to apply to be a roofing LBP.

The advantages of this option are that it:

- removes the potential issue of plumbers and gasfitters undertaking work that they have not demonstrated their competence in
- provides clarity over jurisdiction – ancillary work in relation to sanitary plumbing or gasfitting work can continue to be undertaken by licensed plumbers and gasfitters – who will be accountable to the PGD Board for the quality of this work. Non-ancillary work (such as general roofing work) would be RBW and therefore the practitioner would need to be licensed as an LBP – and accountable to the Building Practitioners Board.
- Plumbers/gasfitters who are clearly competent in roofing (or indeed, any other RBW element) would be able to demonstrate this by becoming licensed as an LBP.

The disadvantages of this option are:

- Ancillary work, which if undertaken by an LBP would be RBW, would be exempted from being RBW if carried out by a licensed plumber/gasfitter
- Consumers would have no formal Record of Work identifying who did the ancillary work if that work was undertaken by a licensed plumber/gasfitter
- Plumbers and gasfitters who do general roofing work (and are currently 'deemed' to be roofing LBPs) would be required to apply to be licensed and pay the associated application/assessment costs
- It could be argued that registered plumbers and gasfitters should be trusted to work within their competency, and the two boards should be able to sort out any jurisdictional issues between them.



Questions

1 Is there a problem with the 'deeming' provision as it currently stands?

Yes No

2 If yes, what are the impacts if nothing changes?

3 If no, why do you not think there is a problem?

4 Do you agree with the preferred option?

Yes No

5 If yes, is a transition period of six months enough to enable registered plumbers and gasfitters who want to carry out general roofing work, to apply for and obtain a roofing licence?

Yes
 No – it should be

6. If you don't agree with the preferred option, what option do you prefer, and why?

7 Are there other options that should be considered? If so, please specify

Your Details

Please complete this consultation by Monday, 3 September 2012.

1 Please enter your details.

Your name:

Email address:

2 What licence do you hold?

- | | |
|------------------------------------|--|
| <input type="checkbox"/> Plumber | <input type="checkbox"/> Gasfitter |
| <input type="checkbox"/> Design | <input type="checkbox"/> Brick and Blocklaying |
| <input type="checkbox"/> Site | <input type="checkbox"/> External Plastering |
| <input type="checkbox"/> Carpentry | <input type="checkbox"/> Foundations |
| <input type="checkbox"/> Roofing | <input type="checkbox"/> None |

3 Please select the Industry/Sector you represent.

- | | |
|--|--|
| <input type="checkbox"/> Plumbing/Gasfitting | <input type="checkbox"/> Specialist Contractor |
| <input type="checkbox"/> Design/Architect | <input type="checkbox"/> Manufacturer |
| <input type="checkbox"/> Engineer | <input type="checkbox"/> Building Owner |
| <input type="checkbox"/> Trade LBP | <input type="checkbox"/> BCA |

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