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Plumbers Gasfitters and Drainlayers Board  
PO Box 10655,  
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# PGD Board Registration and Licensing Consultation

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## Introduction

1. The Plumbers Gasfitters and Drainlayers Board (the PGD Board) is carrying out a review of the minimum standards, and terms and conditions of the registration and licensing of plumbers, gasfitters and drainlayers. The Board is consulting with tradespeople and other stakeholders as part of the review.
2. The minimum standards, and terms and conditions of the registration and licensing of plumbers, gasfitters and drainlayers was last comprehensively reviewed to coincide with the introduction of the current Plumbers, Gasfitters and Drainlayers Act 2006 in 2010. They are contained in the Plumbers, Gasfitters and Drainlayers (Registration and Licensing) Gazette Notices.

## The Plumbing Gasfitting and Drainlaying Industry

3. The plumbing gasfitting and drainlaying industry is unique in a lot of ways, but in particular, one of the unique aspects is that the regulation of the industry and the prosecution of unauthorised people who choose to illegally do sanitary plumbing, gasfitting or drainlaying is 100% funded by the tradespeople in the industry.
4. When people refer to the plumbing, gasfitting and drainlaying industry funding its regulation, that is not entirely true as it is ONLY the tradespeople operating within the industry that fund the regulation. No fees or levies are imposed on training organisations, suppliers, wholesalers, designers etc., unlike other industries where funds are obtained from building, construction and electrical levies. It is therefore imperative that registration and licensing is fair, equitable and just.

5. The tradespeople who operate in the plumbing, gasfitting and drainlaying industry are in a lot of cases, qualified in more than one trade. A large proportion are self employed, requiring them not only to keep abreast of their trade regulation, but also business and employer compliance requirements. In addition most are licensed building practitioners with regards to roofing.

## Plumbers Gasfitters and Drainlayers Board

6. The Plumbers Gasfitting and Drainlaying Board (PGD Board) are the regulation and licensing authority for the plumbing gasfitting and drainlaying industry. They currently operate as a consumer protection Board and have publicly stated they are not in existence for the industry but for the protection of the public and their property.
7. It is the Federation's opinion the PGD Board has continually attempted to increase its powers with regard to registration and licensing. Discipline and prosecutions seem to have been used as measurements of success - however the Federation believes they are measurements of failure.
8. The Federation believes the PGD Board are creating a lot of the issues by the manner in which they impose regulations on the industry. This seems to be by way of force and coercion.
9. Registration and licensing terms and conditions play a critical part in the relationship between the tradespeople and the PGD Board. The relationship is currently one of mistrust.
10. When the PGD Board was an industry Board with industry representation there was a much more productive relationship. For over a decade the Board has struggled to obtain industry support for the type of regulation it is trying to impose on tradespeople.

## Federation Holistic View

11. The performance of the PGD Act is crucial to the regulation and performance of the tradespeople operating in the industry but the PGD Act does not operate in isolation so a holistic view must be taken to link the PGD Board's rules and regulations to the legislation.
12. This holistic view must look at the registration and licensing and the terms and conditions that are imposed on tradespeople in the industry whilst also protecting the health and safety of the public.
13. The Federation's view is that registration and licensing and their terms and conditions need changes to improve the regulation of the industry - but what needs major change is the manner in which terms and conditions are implemented.
14. In addition there are issues with training and qualifications which need urgent attention and that link directly to the issues faced by the industry.

## Some Issues Already Identified by the PGD Board.

15. The Board has asked for views on the following issues that the Board has already identified and any other issues relating to registration and licensing:
- Should there be an additional “journeyman” class of registration introduced?
  - Should the work that people are permitted to do under the “exemption under supervision” provisions be restricted?
  - Should there be other registration classes for people wanting to undertake just a limited range of plumbing, gasfitting or drainlaying work?
  - Should there be one or two classes of registration for qualified tradespeople?
  - Are the current registration class names appropriate?
  - Should there be terms and conditions of registration?
  - Should the certifying examination be part of a NZQA qualification?
  - What changes (if any) should be made to the CPD scheme?
  - What changes (if any) should be made to the supervision requirements?

### Should there be an additional “journeyman” class of registration introduced?

16. The Federation believes there are a large number of partially qualified people in the industry who for various reasons have not obtained their registration. Some of these people operate illegally in the industry and others in the black market. The journeyman qualification is one way of recognising the effort these people have put in to completing their apprenticeship in the industry and encouraging them to stay legal.
17. The industry needs to retain skilled people and giving them an incentive and further chances to gain experience and qualifications is one way of doing that. In addition the Journeyman class would allow for the regulation of partially qualified individuals and eliminates the current situation where supervisors are responsible to regulate exemptions under supervision.
18. One pre-requisite the Federation supports to become a Journeyman would be that the individual has completed an apprenticeship in the trade to which they apply for journeyman status. If this was not the case it would simply be another form of exemption.
19. There would still be a requirement for a named supervisor who we feel should be in the same company/organisation.

### Should the work that people are permitted to do under the “exemption under supervision” provisions be restricted?

20. Exemption Under Supervision currently seems to be used as a qualification class that is not regulated and creates supervision issues. The creation of the Journeyman status would remove a lot of the issues surrounding exemptions under supervision.
21. The Federation feels exemptions under supervision should be for specific tasks and yes there should be restrictions placed on these exemptions. These should be stringently policed for the protection of the public.

22. Any exemption under supervision should be under the supervision of a person in the same organisation or on a service contract basis which the PGD Board can review.

### **Should there be other registration classes for people wanting to undertake just a limited range of plumbing, gasfitting or drainlaying work?**

23. The Federation believes it is not in the best interests of the industry or in the interests of the safety of the public to have registration classes for a limited range of issues.
24. It is very easy for the scope of the limited range to be "inadvertently extended" by the people holding these classes. The regulating and policing of such people would seem to be an issue.
25. The creation of such classes would impose additional enforcement costs on registered people in the industry. These costs are already excessive.

### **Should there be one or two classes of registration for qualified tradespeople?**

26. The Federation is a strong believer of only one class of registration being Registered Plumber, Registered Gasfitter and Registered Drainlayer. The one class of registration would require a longer apprenticeship of around 10,000 hours (i.e. definitely longer than the current apprenticeship).
27. One registration class supported by the introduction of the Journeyman class would make for a strong knowledge and skill base with limited supervision issues to deal with, unlike the current system.
28. The Federation believes the classes of registration currently in place causes confusion and only holds a portion of the industry wholly accountable for their actions.
29. Currently there are licensed Certifying Plumbers, Gasfitters and Drainlayers and licensed Licensed Plumbers, Gasfitters and Drainlayers. Those who obtain the Licensed Qualification are not permitted to apply their trade unless they are under supervision which creates supervision issues. This in its self creates problems with individuals being accountable for their own work. It also creates a "Black Market" where licensed class tradespeople are operating on their own.
30. The PGD Act 1976 referred to doing an apprenticeship but that has been excluded from the PGD Act 2006 which has resulted in people being given qualifications by the Board when those individuals have never completed an apprenticeship or even sat relevant exams. This needs to be rectified. Some people have reached Certifying Class with no apprenticeship or having sat any relevant exams. Complaints about this have been ignored.
31. The Federation does not see how an individual without the relevant training can be deemed safe for the public solely based on the PGD Board's word. Others with vast experience who have done apprenticeships and passed most exams have been denied the same opportunities - double standards exist.

### Are the current registration class names appropriate?

32. The current registration class names are not appropriate and never have been. They are misleading and confusing. There are Licensed Licensed Tradespeople and Certifiers who don't certify anything. Totally ridiculous.
33. Members of the public only want to know if a person is authorised to do the work. They don't really care what the name is but the more classes of registration there is the more confusing it is.
34. One class name is required and that is "Registered," this would also bring us in line with our colleagues in the electrical industry.

### Should there be terms and conditions of registration?

35. There should not be terms and conditions of registration. This is simply a veiled attempt to impose more regulation on the industry. Most of the issues mentioned in the consultation document already have provisions for their enforcement in the PGD Act 2006. The PGD Board appears to be wanting to legislate itself more power. They have already done this with their application of Section 32 which is discussed later in this submission.
36. If such terms and conditions were imposed the tradespeople would again be expected to fund the policing of the extra terms and conditions and in saying that, to what extent would the extra enforcement action go? If it was a term and condition of registration would it mean the removal of the tradesperson's name from the register thus removing their qualifications. Would they need to re-qualify?
37. If terms and conditions were imposed on registration would there be a need for annual licensing because in effect they would become the same.
38. The PGD Board attempted to make it mandatory for attendance at a competency review and this was rejected by the industry. The cost of the review was to be the responsibility of the tradesperson. Section 53 of the PGD Act is adequate for the review of competence if the PGD Act is followed. Here the Board is trying to make it a term and condition of registration.
39. A review of competence can be such that the individual does not need to be involved. The PGD Board should have in place monitoring, they can check on complaints made, they can check with local councils and if nothing is identified then no further action is required.
40. The onus is on the PGD Board to prove incompetence, not for the individual to prove competence at the PGD Board's whim. As with a lot of issues the PGD Board are attempting to shift responsibility and cost to the tradespeople and to legislate themselves more power to control an industry that is rejecting them.
41. The question needs to be asked – "How many times does a tradesperson need to prove their competence and at what cost, and why is the industry rejecting the PGD Board?"

### Should the certifying examination be part of a NZQA qualification?

42. The Federation supports the certifying examination being part of an NZQA qualification, but emphasizes there should only be one qualification that of "Registered"
43. The Federation feels the current exam fees and cost of first time registering are placing a barrier to entry into the industry.

### What changes (if any) should be made to the CPD scheme?

44. The current Continued Professional Development (CPD) scheme in our opinion has no credibility and does not achieve its perceived purpose.
45. The section on competence programmes in the PGD Act 2006 section clearly states the purpose of a competence programme is for examining or improving the competence of persons who do or assist in doing sanitary plumbing, gasfitting or drainlaying. It makes no mention of buying points to prove competence on subjects that tradespeople are already qualified in.
46. This section poses the question that if CPD is a competence programme and a person buys their required points, is deemed competent by the PGD Board and is given authority to do sanitary plumbing, gasfitting and drainlaying then what happens if they are ordered to do a competence programme as a result of action under discipline? What competence programme do they do if they have already been deemed competent by the CPD scheme? This shows CPD is not a competence programme and is unlawful as a term and condition of licensing.
47. The so called CPD scheme has been implemented by the PGD Board claiming it is a competence programme. The Federation believes what has been implemented by the PGD Board is nothing more than a "mechanism" to implement a Competence Programme.
48. The term Competence Programme needs defining as it has implications throughout the entire PGD Act from terms and conditions of licensing to discipline order issues.
49. The Federation agrees there needs to be clarity of the meaning of competency, supervision and upskilling but this needs to be taken into the context of what is good for the tradesperson. No matter how many points a tradesperson buys to have the PGD Board deem them to be competent that person is only as good as their knowledge and skills and their willingness to apply them.
50. The existing CPD Scheme is a total failure and does nothing to encourage tradespeople to improve their skills, in fact it is quite the opposite - more time is spent avoiding the scheme they do not support, or looking for free courses than actually looking at the competency and knowledge needs.
51. The PGD Board have been claiming incompetence based on points rather than having monitoring and analysis systems in place to assess what knowledge, skills and competence are needed. Not every piece of information that is useful is a competence and needs to be in a formal course setting. Some organisations have less relevant training now than ever before because they need to save the time and resources for buying their CPD points for licensing.

52. The Federation believes a competence programme is designed to protect the public's health and safety and the protection of property by ensuring licensed practitioners are fully competent within the Plumbing, Gasfitting and Drainlaying industries by ensuring the correct information is being supplied and monitored by the governing body.
53. The PGD Board should be able to accurately assess each individual, class of registration and the industry as a whole. The PGD Board must be able to fully comply with the expectations of the Executive, intent of the PGD Act 2006 and better serve its purpose by protecting the public's health and safety.
54. The Federation feels competence programs should be split into three key areas of importance:
  - Disciplinary Competence Programmes
  - General Competence
  - Compulsory Competence Programmes
55. By splitting the competence programmes into the three key areas the system will allow practitioners and the Board to identify an individual's area of deficiency that can be rectified without delay and is not restrictive. The system will also give the Board a transparent path to achieving the outcome of an industry that is up skilling on a frequent basis with relevant and current information.
56. Individuals know what is best for them and should be left to control their training. The PGD Board's function is to monitor the training and deal with people who fail to achieve expectations of training and up skilling.
57. More on CPD and Principles guiding prescribing of registration and licensing matters is discussed later in this submission.

### **What changes (if any) should be made to the supervision requirements?**

58. The Federation believes the current supervision requirements deregulate a section of the industry and takes away personal responsibility from those who are supervised.
59. The introduction of the Journeyman class would assist in the tightening up of responsibilities of all tradespeople for their work.
60. Supervision is more than being held accountable if anything goes wrong and at the moment that is all that is achieved by the current supervision requirements.
61. Supervision requirements should only be met by people employed in the same organisation or by way of a contract of service that the PGD Board can hold on file.

# Other identified issues pertaining to registration and licensing

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62. The Federation has identified other issues pertaining to registration and licensing which it feels need addressing.
63. Some subjects need defining for appropriate interpretations of the PGD Act:
  - When does a trainee cease being a trainee?
  - What is competence with regard to trade skills?
  - What is a Competence Programme?
  - What are "matters" as it pertains to Section 32

## Exemptions

64. The Federation sees problems around Exemptions in that the manner in which the PGD Act has been interpreted means people with exemptions are not held accountable in any way. The Federation is a firm believer that people should be qualified and are accountable for their own work.
65. The PGD Act and regulation of the industry does not encourage people to get qualifications or to be responsible for their work. People working under exemptions have an out at all times and this creates problems with supervisors who are held accountable for the actions of the exemption holder.
66. It is the Federation's opinion that "Exemptions" have been used to cover for failures in the training regime and is firmly of the opinion apprenticeships should be extended to 10,000 hours and when qualified, the trainee becomes a registered plumber, gasfitter or drainlayer or a combination. Only one qualification is needed, that of Registered (such as we see with our counterparts in the electrical industry).
67. This would require the changing of the current registration classes and the NZQA qualification which is currently being worked on. Anything less than this and there will forever be issues with unqualified people working in the industry under questionable supervision.
68. The Federation believes educating people and picking them up if they are failing is a far better way of protecting the public than allowing partially qualified people to operate in the industry.
69. If something does go wrong to a job done by an exemption holder what is going to be achieved by holding the supervisor to account? The supervisor will be pissed off, the Exemption holder will lose their job, the supervisor will be anti the PGD Board and will probably leave the industry feeling bitter.



### Exemption under training

70. When does a trainee cease to be a trainee? Does it have to be formalised training that the trainee is participating in? This needs clarification.
71. An example is where a trainee has gained national certificate but it not yet registered i.e. the no man's land time period before they gain first time registration and the fact that many wait until the new licensing year to do this. For others the cost of first time registration is too high and they simply continue to operate after the year their trainee status ceases and do not appear on the radar at all or pick up exemption status as it is simply cheaper to do so.

### Exemption for householders

72. The Minister of Building and Housing can allow exemptions for householders but the Federation does not see how this is an advantage to the industry. How does it protect the public now and in the future? What it does mean is the industry is regulated through registration and licensing but the public is not.
73. How long do the Gazette Notices remain in force for exemptions for householders? Should there be a renewal?
74. A recent question asked of the Wellington City Council who apparently have an exemption in place for householders revealed they could not inform the person making the query when the Minister had gazetted the notice.
75. The Federation's advice would be that it is a requirement for the Minister to reissue or promulgate the Gazette notice annually.
76. Why regulate an industry of highly skilled tradespeople but yet give an exemption to members of the public - it's just hypocritical.

### Exemption for sanitary plumbing, gasfitting and drainlaying under supervision

77. At what stage does an application for an exemption for sanitary plumbing, gasfitting or drainlaying under supervision have to be made and when does it take effect?
78. Exemptions deregulate some of the industry in that the Board has no authority to discipline or impose fees or levies on the exemption holder.
79. The manner in which these sections are applied by the PGD Board results in the Supervisor taking all the responsibility for the exemption holder including the payment of fees.
80. The legality of the PGD Board imposing fees on the supervisor is, in our opinion, questionable.
81. If the PGD Board and Government are serious about safety why don't people in these categories have to be Certified Tradespeople?

## Duration of practicing licenses

82. The PGD Act has the provision for a 5 year license but the industry still has a one year license imposed on it which was not the intent of the PGD Act.
83. It is the Federation's opinion that annual licensing is oppressive to the industry. It does nothing for the protection of the public and imposes costs and terms and conditions that are not necessary annually.
84. The Federation believes it should be a two year license at the very minimum but 5 years would be preferable.

## Principles guiding prescribing of registration and licensing matters

85. Section 32 of the PGD Act 2006 needs clarification based on the intent of the PGD Act.
86. The Federation believes the application of Section 32 by the PGD Board is wrong and is not in accordance with the general objects and intentions of the PGD Act. They have consulted and implemented a mechanism, namely a points scheme called Continuing Professional Development (CPD) and have applied Section 32 to that scheme. They have instituted an extra step in the competence based licensing intent of the PGD Act and have legislated themselves power and have made the scheme mandatory.
87. Section 32 states that the matters must be necessary, for matters of a competency programme to be necessary those matters must be based upon a demonstrated need and as such the programme must be mandatory - the Board's current scheme does not meet this threshold.
88. The scheme is not a competence programme but a mechanism. The Federation believes the PGD Board has implemented the CPD point's scheme that takes away the application of Section 32 of PGD Act. Section 32 has not been applied in the manner in which it was intended and does not match the purpose of the PGD Act. The Federation asserts the Board does not have the statutory right to authorise itself power in this manner.
89. The application of Section 32 to a mechanism rather than to a competence programme removes the protection afforded by Section 32 to the industry with regard to cost. The PGD Board has no control over costs that can be imposed on practitioners as a result of the mandatory nature of the implementation. These costs are market driven and the resulting risk is the burden of the practitioners who are forced to obtain CPD points in order to obtain a practicing license.
90. The manner in which CPD has been implemented is an abuse of the powers inferred on the PGD Board and as a result the PGD Board has not instigated a robust, efficient regime to best monitor what matters are necessary to meet the needs of the PGD Act and to help ensure delivery of maximum benefits at minimum cost. The PGD Board has legislated themselves authority at a cost to practitioners.
91. Section 32 of the PGD Act is the main point of contention. Section 32 describes principles the Board must be guided by when prescribing registration and licensing requirements and is as follows:

## Principles guiding prescribing of registration and licensing matters

In prescribing matters under sections 28 and 30, the Board must be guided by the following principles:

- (a) the matters must be necessary to—
  - (i) protect the health or safety of members of the public; or
  - (ii) promote the prevention of damage to property; or
  - (iii) promote the competency of persons who do, or assist in doing, sanitary plumbing, gasfitting, or drainlaying; or
  - (iv) carry out, give effect to, or provide for a matter that is incidental to, or consequential on, the matters relating to subparagraph (i), (ii), or (iii); and
- (b) the matters may not unnecessarily restrict the registration or licensing of persons as plumbers, gasfitters, or drainlayers; and
- (c) the matters may not impose undue costs on plumbers, gasfitters, or drainlayers, or on the public.

92. During the consultation process the PGD Board issued a consultation document and also a document entitled ***“The Board’s consideration of Section 32 principles in relation to the proposed CPD scheme”***. This document was misleading in our opinion, and places into question if the consultation was in fact relevant.

93. The considerations appeared sub titled in the document like this:

- *s32(a)(i) – **the proposed CPD scheme** must be necessary to protect the health and safety of members of the public.....*
- *s32(a)(ii) – **the proposed CPD scheme** must be necessary to promote the prevention of damage to property.....*
- *s32(a)(iii) – **the proposed CPD scheme** must be necessary to promote the competency of persons who do, or assist in doing, sanitary plumbing, gasfitting or drainlaying.....*
- *s32(a)(iv) – **the proposed CPD scheme** must be necessary to carry out, give effect to, or provide for a matter that is incidental to, or consequential on, the matters relating to subparagraph (i), (ii) or (iii).....*
- *s32(b) – **the proposed CPD scheme** may not unnecessarily restrict the registration or licensing of persons as plumbers, gasfitters and drainlayers.....*
- *s32(c) – **the proposed CPD scheme** may not impose undue costs on plumbers, gasfitters, or drainlayers, or on the public.....*

94. As can be clearly seen the PGD Board have applied section 32 to **the proposed CPD scheme**. This is nothing more than a misleading document. Refer to section 32 above and you will notice the section states:

- **the matters** must be necessary to.....
- **the matters** may not unnecessarily.....
- **the matters** may not impose.....

95. The term "the Matters" needs to be defined as it pertains to the PGD Act.

96. The telling difference being, the PGD Board has replaced **“the matters”** with “the proposed CPD Scheme”. The PGD Board have applied section 32 to “the proposed scheme” to justify the purpose of the Act which is:

*The purposes of this Act are—  
to protect the health and safety of members of the public by ensuring the competency of persons*

*engaged in the provision of sanitary plumbing, gasfitting, and drainlaying services; and to regulate persons who carry out sanitary plumbing, gasfitting, and drainlaying.*

97. It is well known that most sections (if not all) are there to meet the purpose of the PGD Act. The PGD Board have applied Section 32 for the protection etc of the public.
98. Section 32 was instituted into the PGD Act for the protection of the tradespeople. The following passage is from the Plumbers, Gasfitters and Drainlayers Bill as reported by the Commerce Committee and appears in the Commentary.

*“We were concerned by the introduction of licensing requirements for tradespeople in the later years of their profession, who after thirty or forty years of plying their trade will be required to pass competency tests. In the event that there are no outstanding or obvious complaints against these practitioners, we ask that the Board gives special consideration to how they deal with renewal of ongoing licenses in these cases”*

99. There were obvious concerns about what the PGD Board could impose on the industry with regard to competency and licensing conditions. We know the PGD Board have done nothing about this which is costing the industry experienced people.
100. The Commentary went on to say this with regard to Section 32:

***“Principles for prescribing registration and licensing matters”***

*We recommend the inclusion of new clause 83A setting out principles to guide the Board in setting classes of registration and competency standards, as we are concerned that the bill as introduced gives the Board too much power in this respect. This is the same approach we took in our recommended amendments to the Energy Safety Review Bill.*

*The guiding principles are as follows:*

*The prescribed matters must be necessary to protect the health and safety of members of the public or promote the prevention of damage to property:*

*The prescribed matters may not unnecessarily restrict the registration of persons as plumbers, gasfitters, or drainlayers:*

*The prescribed matters may not impose undue costs on plumbers, gasfitters, or drainlayers or on the public”*

101. This section of the commentary rightly states the committee’s concerns regarding the powers given to the PGD Board. The committee realized the matters to deal with competency and licensing had to be restricted and monitored for the protection of the tradespeople and as such was the intent of Section 32 of the PGD Act.
102. So what are **the matters**? Matter is defined as substance, material, subject, topic, theme – so it is clearly seen that when dealing with competency standards, as recommended by the committee in its commentary, the matters are the content of the courses/training. So in this case **the content must be necessary** to promote the competency etc.
103. The PGD Board have applied Section 32 to the scheme for the protection of the public where Section 32 is for the protection of the tradespeople to prevent from happening exactly what **is** happening - the accreditation and application of courses that are not necessary or possibly not even relevant. Course such as “Hearing Conversations”, “Clan Labs”, “Demonstrate knowledge of health and fitness for civil infrastructure personnel”.

104. The PGD Board have made the “CPD Scheme” a term and condition of licensing and it is compulsory for all tradespeople relicensing. The Regulation Reviews Committee had this to say:

*We note that section 32(a) does not prevent the board offering other courses to practitioners which it considers would be useful for them. However, in our view, such courses cannot be included in a system that is compulsory as a condition on licensing.*

105. In an historical complaint dealt with by the PGD Board regarding CPD where it was proved the scheme was illegal under the 1976 Act, Helen Cull QC who reported on the complaint was asked by the Board to remove the following paragraph as the Board claimed issues under the 2006 Act were beyond the scope of her investigation:

*Even under the 2006 Act, the Board may only prescribe requirements relating to the completion of competence programmes by notice in the Gazette. It was not open to the Board, in my opinion, for it to impose a mandatory system on applicants, when those mandatory requirements infringed the statutory rights and opportunities of the applicants and was implemented without the relevant considerations of the regulation-making process.*

106. It seems to be the PGD Board have interpreted the CPD Scheme as being a competence programme which it is not, it consists of a number of courses some of which could be competence programmes. This is evidenced by Section 106 of the PGD Act where the PGD Board is empowered to order a person to:

- pass any specified examination;
- complete any competence programme or specified period of training;
- attend any specified course of instruction.

107. We don't believe it is likely the PGD Act would intend for a person to undertake the entire CPD Scheme (Competence Programme) as interpreted by the PGD Board. It is very likely they may have to attend a course of instruction.

108. The Federation submits that CPD must be as a result of a demonstrated need. We have expressed this view multiple times to the Minister (both Maurice Williamson and Dr Nick Smith), and the PGD Board themselves.

109. The PGD Board have removed the protection intended by the Act and have regulated themselves **more power** which is what Section 32 was supposed to prevent.

110. The PGD Board had this to say in the its own consideration of Section 32 where they state:

*“A scheme of the type discussed would be a mechanism to improve the competency of tradespeople”*

111. What is also notable is that the consideration addresses and attempts to justify the “CPD Scheme” not the “matters”. For the sake of analysis we ask that you remove Section 32 from the equation for the time being and ask what changes in the PGD Act? You will find the PGD Act could have operated without Section 32 and the Board would have had the same powers if not more.

112. Section 31 would have operated without reference to Section 32 and so would have Section 55 and other sections referred to by the PGD Board. The Board have applied Section 32 to issues which Parliament have already given them the power and resources to impose on the industry. The issues were justified when the Act was legislated. For example:
- **“s32 (a) (i) – the proposed CPD scheme must be necessary to protect the health and safety of members of the public”** Protecting the health and safety of members of the public is the purpose of the Act and has been justified by the legislating of the Act. It does not need to be justified by section 32 or the CPD scheme.
  - **s32 (a) (iii) – the proposed CPD scheme must be necessary to promote the competency of persons who do, or assist in doing, sanitary plumbing, gasfitting or drainlaying.** Section 31 gives the Board the power to impose minimum standards to achieve that result and has been legislated as such. Section 32 does not need to justify that which is already legislated.
113. So it must be agreed that the PGD Act could have progressed without Section 32. If we now put Section 32 back into the equation as considered by the PGD Board, we note they have applied Section 32 to a mechanism and not the matters to do with competency. They have gazetted themselves power over and above that intended by the PGD Act and have removed protection from the industry which was obviously intended by the PGD Act.
114. Harry Duynhoven on 23 November 2006 Energy Safety Bills – Third Reading Speech stated:
- " Another important feature of these two Bills is that they provide for competency-based licensing. This will ensure that before a worker is issued with a new license he or she is competent in specified areas such as the use of new equipment, and changes in standards and regulations"*
115. Even this statement emphasized *new equipment, and changes in standards and regulations* not to retest on what was already known, or to do courses that are years old and have been sitting on a shelf.
116. The Federation is of the opinion that if there is **no demonstrated need for a CPD course then it is unnecessary and the cost cannot be justified.** The Government wants the industry to trust in the professionalism of the PGD Board. The same PGD Board that unlawfully implemented CPD under the 1976 Act, the PGD Board that unlawfully took millions of dollars from the industry, the PGD Board that are non representative of the industry and the PGD Board that have cut off communication with part of the industry because they have a different opinion.
117. There is no problem with the legislation but more with the manner in which the PGD Board impose fees and use them to entice profit making organisations to support the PGD Board’s activities. A prime example is Continuing Professional Development. Initially there was a fee charge to organisations to have courses accredited and re-accredited every two years.
118. As it came to light that the tradespeople did not support the CPD scheme the PGD Board removed the accreditation fee and re-accreditation fee to ensure the continued support of the training organisations. The tradespeople are required to fund the accreditation and re-

accreditation of the courses leaving no cost on the profit making organisations for accreditation and re-accreditation e.g. suppliers.

119. There is also a question of the legality surrounding the requirement of Certifying tradespeople having to pay the fee for people under their supervision. If the PGD Board cannot impose discipline, competence or licensing fees on a group of people then should that category of licensing exist? If there was one classification of license i.e. Registered Plumber etc this problem would not occur.

## **Linking licensing to ongoing competence, knowledge and skills**

120. The Federation does not believe ongoing competence, knowledge and skills should be linked to relicensing. The monitoring systems should be in place by the PGD Board to access what is needed by individual tradespeople as everyone is different, and anything that all tradespeople or classes of tradespeople need to know should be mandatory. We have made suggestions around this several times to the PGDB and they have ignored us. This mandatory knowledge should then fall down in to the apprenticeship system to ensure it is captured and taught there as well.
121. The Government and PGD Board's failures are being laid squarely on the tradespeople who are already qualified and proven their competence of the minimum standard required for registration - those failures are training at apprenticeship level and allowing for an out point of partially trained people at Licensing Class. CPD is being used to top up the skills and knowledge of partially trained trainees due to them not being taught appropriately during their apprenticeship.
122. Appropriately trained people should, at conclusion of their apprenticeship, be competent at all the competences and after that only need the skills and knowledge brought about by new technology or changes in legislation etc. As it currently stands tradespeople are being asked to re-qualify on subjects they have already been deemed competent in.
123. The Federation believes a check of the number of people disciplined for competency based issues would be very few based on the quantity of work performed annually in the industry.
124. The PGD Act currently has sufficient powers to conduct competency reviews if the procedures detailed in the PGD Act are adhered to. The PGD Board attempted to impose on the rights of individuals who refused to participate until the PGD Board did adhere to the legislation. The PGD Board took this as a bloodied nose and now want to legislate power to force compliance and attendance at competency reviews.
125. The Board have indicated there will be a cost to the tradesperson for the review. This is yet again imposing costs on tradespeople to again prove their competence. How many times does a tradesperson need to prove their competence? Does the Government require a random selection of drivers to re-sit their license every year to prove their competence or to identify areas for improvement - no they don't. There are numerous other ways to identify areas for improvement.
126. Pushing for compulsory attendance at competence reviews will drive more tradespeople

from the industry. The PGD Act has provision for attendance now and this should be left as it is.

127. The level of risk plays an important part in the level of monitoring required and again the PGD Board needs to put in place monitoring and assessment techniques that will need to be justified. These techniques need to be measurable as do the results. The current points system doesn't measure competence but measures how many points have been purchased.
128. Training and having the industry supporting the Board's activities is far more important for competence than what exists now. All qualified tradespeople have reached the required level of competence and only require upskilling in the issues they don't know.

## Registration and licensing of tradespeople in general

129. The Federation is not happy that Registration is being handed to people who have never done apprenticeships or passed relevant exams and yet other applicants with vast overseas experience and who have done apprenticeships are denied registration. Instances were reported to the past Chairman of the PGD Board and the previous Minister of Building and Construction where the Minister accepted it was the PGD Board's decision.

## PGD Federation General View

130. There have been a lot of criticisms of the PGD Act but in general the Federation feels there have been few problems with the PGD Act but more with the way the PGD Board have implemented and interpreted parts of the PGD Act.
131. The regulations supporting registration and licensing, we believe, have been misused and have not adhered to the intent of the PGD Act. Numerous examples have been provided in this submission and in other submissions made by us over the last five years.
132. The PGD Boards over the past decade have used the regulations supporting registration and licensing as a tool to force the tradespeople working in the industry into submission to comply with the direction supported by a few in the industry, not necessarily tradespeople.
133. If research is done to the time prior to the last decade it would be found the relationship between tradespeople and the PGD Board was a very harmonious one, and the industry and the public benefited from the relationship.
134. Enter competence based licensing and Industry Training Organisations and this was the decline of the industry. Standards in training slipped and then became non-existent. Millions of dollars have been pumped into the ITO's to provide industry training and it has been targeted at Level Four. Level Four in the plumbing gasfitting and drainlaying trades is a person who has reached licensing registration but is still not deemed capable of applying their trade without supervision.
135. As training has concentrated on level four a large number of trainees have opted not to progress to Certifying Registration. This has resulted in a large number of people requiring supervision which has brought about its own issues within the industry.



136. The retrospective legislation imposed by the Government with regards to fees and levies and the Government voting against the recommendations of the Regulations Review Committee have created an environment of mistrust which has placed the PGD Board in a position as being seen as puppets to the Government.
137. This puts the registration, licensing and supporting regulations under immense scrutiny. This coupled with the PGD Board's inability to win the support of the tradespeople in the industry has left the Board in a position of an industry actively rejecting their regulation of the industry.
138. When reviewing registration and licensing and the application of the Act it must be remembered most tradespeople it affects are funding their own training and licensing. They are resentful of having to pay for the PGD Board which does nothing but impose costs on them for the benefits of others and continually impose terms and conditions regarding competence and licensing.
139. If tradespeople in the industry reject the regulation imposed on them the Government have a situation where they have a shortage of legal tradespeople and have an escalation of illegal operators whereby they lose control of the so called protection they provide the public.
140. Should the current situation of heavy handed regulation and excessive costs and terms and conditions of licensing continue plumbing, gasfitting and drainlaying will join the list of vanishing trades. There will be opposition to this comment by some and it will generally be those who stand to benefit from the reduced number of qualified tradespeople.
141. For the plumbing, gasfitting and drainlaying industry to progress and provide the level of protection intended by the PGD Act it needs an industry Board or similar to provide leadership and governance of the industry. The current structure of the PGD Board provides for that to happen but the functions of the Board have been interpreted to follow a consumer protection role by enforcement and forced compliance only.
142. Experience is leaving the industry due to its regulation, terms and conditions of licensing and cost of remaining legal.
143. At the writing of this submission the Federation was actively advising its members to consider their options including ignoring the PGD Board, but staying legal, and also passing on compliance costs to the consumer. The force and coercion used on the tradespeople over the last decade hasn't and won't work no matter what format it is put in. Getting voluntary compliance is the only type of regulation that will work.



Wal Gordon  
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