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- **REGULATION REVIEW COMMITTEE**

**IN OTHER NEWS**

**CONTINUED**

50. The Federation believes undue costs are being imposed on practitioners for them to be able to apply their chosen trade/s unsupervised. Firstly there are two registration costs required per trade. One cost at Tradesman Registration and then another one at Certifying Registration. The current registration fee paid to the PGDB is \$375.00 per trade. Most apprentices have two trades so that would be \$750.00 for each class of registration. Those who do three trades it would be \$1,125.00 for each class of registration.

51. Those registration costs would be accompanied by a license fee of \$90.00 per trade, per class, and a discipline levy of \$285.00. First time Tradesman registration and licensing for two trades would be \$1,215.00 and for three trades it would be \$1,680.00

52. Apprenticeship fees are \$50.80 per week for the duration of the apprenticeship which is 4 to 5

**REGULATION REVIEW COMMITTEE**



In the last issue of the Fellow Practitioner we finished the news letter at the end of the Executive Summary of the complaint to the Regulation Review Committee. This week we continue on through the complaint.

***Arguments under specific grounds***

8. We are aggrieved at the operation of the regulations and consider these regulations ought to be drawn to the attention of the House.

9. Of major relevance to this complaint is Section 32 of the Plumbers Gasfitters and Drainlayers Act 2006 (the Act). Section 32 of the Act states:

*32 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*

years. This is \$10,566.40 to \$13,208.00 for the duration of the apprenticeship and if they wish to progress on to Certifying Registration we would estimate this to be at least \$5,283.20 in fees. An exact figure is not available because even though the two classes of registration have been in place for over 40 years they is still no formal pathway to obtain this qualification.

53. An additional cost to obtain Certifying Registration is the exam fee of \$350.00 per exam. That would be \$700.00 for two trades or \$1,050.00 for three trades.

54. The total fees costs incurred to go from Tradesman Registration to Certifying Registration are estimated to be \$6,733.20 for two trades and \$7,458.20 for three trades. This does not include wages and associated cost to attend training.

55. In the 2017/2018 reporting year the PGDB reported new registrations to the Certifying class as Certifying Plumber 202, Certifying Gasfitter 111, Certifying Drainlayer 85. A total of 398 new registrations to that registration class. On an industry wide basis the impact would be \$1,339,906.80 and that does not include wages. These are costs that the practitioners or employers must pay and recover from the consumer if possible.

56. The costs incurred by employers and practitioners in the industry for practitioners to progress from

*(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.*

10. Section 28 of the Act pertains to Classes of registration that may be designated by the Board and section 30 states the Board may prescribe other registration and licensing matters.

### **Back Ground**

11. The three notices outline classes of registration for plumbing, gasfitting and drainlaying and prescribe matters relating to plumbing, gasfitting and drainlaying registration and licensing.

12. Currently there are three levels of registration for each trade being Certifying, Tradesman and Journeyman. Minimum standards for registration apply to each of the three levels. This complaint concentrates on New Zealand qualified registrations and does not consider applications made on the basis of overseas qualifications.

13. To be registered as a Certifying Plumber a person must have held a licence as a licenced or tradesman plumber (or Registered Plumber under the Plumbers, Gasfitters, and Drainlayers Act 1976) for an aggregate period of not less than 24 months under the supervision of a certifying plumber (or a Craftsman Plumber under the Plumbers, Gasfitters, and Drainlayers Act 1976), and passed the examination specified in paragraph 6(2) of the notice.

14. To be registered as a Tradesman Plumber a person must have obtained the National Certificate in Plumbing and passed the examination specified in paragraph 11(2) of the notice or obtained the New Zealand Certificate in Plumbing.

15. To be registered as a Journeyman Plumber a person must have successfully completed one of the following:

*(a) the National Certificate in Plumbing;*

*(b) the third stage block course in plumbing; or*

*(c) the practice trade certificate in plumbing.*

16. To be registered as a Certifying Gasfitter a person must have held a licence as a licenced or tradesman gasfitter (or as a Registered Gasfitter under the Plumbers, Gasfitters, and Drainlayers Act 1976) for an aggregate period of not less than 24 months under the supervision of a Certifying Gasfitter (or a craftsman gasfitter under the Plumbers, Gasfitters, and Drainlayers Act 1976), and passed the examination specified in paragraph 6(2) of the notice.

17. To become a Tradesman Gasfitter a person must have obtained the

Tradesman Registration to Certifying Registration are an unnecessary and excessive expenditure.

57. It is evident the costs are excessive for any business or individual to incur based on the limited perceived return. Section 32(c) of the Act clearly states - the matters may not impose undue costs on plumbers, gasfitters, or drainlayers, or on the public. The example of the 2017/2018 year show costs of \$1,339,906.80 which is not necessary and therefore are excessive.

58. The unwarranted expenditure in these tight economic times imposes barriers on practitioners and employers who are paying excessive costs to enable them to register and progress in the industry.

59. The notices put in place barriers which prevent qualified Tradesman Registered practitioners from applying their trade unsupervised and if they which to obtain the Certifying Registration so they can work unsupervised then they are looking at a period of a minimum of six to seven years. This far exceeds the rights enjoyed by other trades where they can work unsupervised in three to four years.

60. As Tradesman Registered practitioners are deemed not work place competent this restricts them from employing apprentices. The Tradesman Registered practitioners can supervise apprentices but only if they

National Certificate in Gasfitting and passed the examination specified in paragraph 11(2) of the notice or obtained the New Zealand Certificate in Gasfitting.

18. To be registered as a Journeyman Gasfitter a person must have successfully completed one of the following:

- (a) the National Certificate in Gasfitting;*
- (b) the third stage block course in gasfitting; or*
- (c) the practice trade certificate in gasfitting.*

19. A person who has held a Registered Drainlaying licence for the year ending 31 March 2010 will, upon application to the Board, be eligible to be licenced as a Certifying Drainlayer for the year ending 31 March 2011. Applicants must satisfy the Board that they have advanced experience and proficiency in drainlaying. These criteria are deemed to be met if the person:

- (a) has held a drainlaying practicing licence in the year ending 31 March 2009 and in the year ending 31 March 2010; or*
- (b) is a registered drainlayer and has held a Craftsman Plumber licence in the year ending 31 March 2010; or*
- (c) supervised a limited certificate holder in drainlaying in the year ending 31 March 2010.*

Persons not meeting the above criteria but who had signed their training agreement before 1 April 2010 will be required to submit an application to the Board to enable applicants to be assessed using the Board's registered drainlayer transition process. Applicants may be required to submit one or both of the following:

- (a) A letter or letters from one or more territorial authority inspectors who have observed the applicant on at least five drainlaying contracts as a limited certificate holder or registered drainlayer and can verify that the applicant undertook that drainlaying;*
- (b) details of at least five drainlaying contracts which the applicant has undertaken including dates, addresses, building consent numbers and photographs of the drainlaying contracts. The Board may require such information to be verified by a current or past employer or supervisor of the applicant.*

Persons who have held a Certifying Drainlayer licence for the year ending 31 March 2011 will be eligible to be licenced as a Certifying Drainlayer in each year thereafter.

Any other person who has not held a Registered Drainlaying licence under the Plumbers, Gasfitters, and Drainlayers Act 1976 for the year ending 31 March 2010, must, after 1 April 2010, have held a licence as a licensed or tradesman drainlayer for an aggregate period of not less than 24 months

themselves are under the supervision of a Certifying practitioner. This places a barrier to entry into the industry as apprentices are reliant on the supervision of Certifiers for their apprenticeships.

61. Thousands of Tradesman Registered practitioners do not meet the supervision requirements to take on apprentices.

### ***Standing Order 319(2) (b)***

62. The Federation considers the notices are contrary to Standing Order 310(2) (b) in that they trespass unduly on personal rights and liberties.

63. The Federation believes an apprentice at completion of their apprenticeship has a fair and reasonable expectation that they have the right to apply their trade unsupervised. They have successfully completed their training and have passed the relevant exams and unit standards to say they have qualified to the standards imposed by the Building Act and the Gas Regulations. The notices trespass on that right.

64. The regulations impose an unreasonable restriction on the practitioner's right to apply their trade and to operate a business which is also unduly restricted.

65. The right to apply their trade unsupervised and to license annually is a right enjoyed by other trades in the construction industry such as builders and electricians and other trades in New Zealand.

under the supervision of a certifying drainlayer, and passed the examination specified in paragraph 6(7) of the notice.

20. To become a Tradesman Drainlayer a person must have either obtained the National Certificate in Drainlaying and passed the examination specified in paragraph 11(2) of the notice or obtained the New Zealand Certificate in Drainlaying.

21. To be registered as a Journeyman Drainlayer a person must have:

*(a) obtained the National Certificate in Drainlaying; or*

*(b) completed the practice trade certificate in drainlaying.*

22. The two main classes for registration, being Certifying and Tradesman, were introduced around 1976 under different names being Craftsman and Registered. This move split one qualification into two. Confirming the reason why has been very difficult and records seem non-existent.

23. Wal Gordon commenced his apprenticeship in 1976 and was told at the time that this move was because too many tradespeople were failing in business. A business paper was introduced at Craftsman (Certifying) Level.

24. The move resulted in Tradesman Registered practitioners having to stay under the supervision of Certifying Registered practitioners for a period of two years after completing their apprenticeships and passing the Tradesman registration exam. Effectively they were deemed "not workplace competent" in that they still required supervision.

25. To be eligible for Certifying Registration practitioners had to pass not only a trade exam but also a business exam. The business paper was later removed as the Board had no right to test practitioners on subject matter that did not fall under the definitions of sanitary plumbing, gasfitting or drainlaying as defined in the Act. The current requirements imposed by the Notices are a repeat of that situation.

26. There is a belief in the industry that the implementation of the two classes of registration was to prevent tradespeople leaving their employer at the conclusion of their apprenticeship and going into competition with them. The two registration class regime required a Tradesman Registered person to remain under the supervision of a Certifying Registered person for two years. They were also required to pass the Certifying exams and the Business exam. This effectively prevented them from going into business.

27. Some practitioners have chosen to follow through and qualify with the Certifying Registration and others have chosen to stay at Tradesman Registration or even the Journeyman Registration class which was only introduced in recent years. This has resulted in a large number of practitioners in the industry having to remain under supervision for life unless they sit and pass the Certifying exams.

28. This is of particular relevance to apprentices who finish their apprenticeship but a barrier is imposed and they cannot apply their trade unless under supervision of a person who holds Certifying Registration and

66. The Federation does not see why plumbing, gasfitting and drainlaying practitioners are singled out and the right to operate unsupervised is removed from them.

#### **Standing Order 319(2) (c)**

67. The Federation considers the notices are contrary to Standing Order 310(2) (c) in that they appear to make some unusual or unexpected use of the powers conferred by the statute under which it is made.

68. It is not within the objects or intentions of the Plumbers Gasfitters and Drainlayers Act 2006 (The Act) that the delegated powers for making regulations should be used to facilitate unnecessary and excessive expenditure to be incurred by practitioners in the industry or consumers.

69. It is not within the objects or intentions of the Plumbers Gasfitters and Drainlayers Act 2006 (the Act) that the delegated powers for making regulations should be used to prevent a person becoming workplace competent at the completion of their apprenticeship.

70. It seems very unusual that delegated powers would be used to prevent a practitioner from becoming fully qualified in their chosen field and being responsible for the work they perform. An action that requires a practitioner at completion of their apprenticeship to remain under supervision for a period of two years. This seems more like a measure to protect employer's investment rather

who is licensed.

#### **Standing Order 319(2) (a)**

29. The Federation considers the notices are contrary to Standing Order 319(2) (a) in that sections 32(b) and 32 (c) of the Plumbers Gasfitters and Drainlayers Act 2006 (the Act) have been breached.

30. The Federation considers the regulations are not within the objects or intentions of the Act in that the notices breach section 32(b) and 32 (c) of the Plumbers Gasfitters and Drainlayers Act 2006 (the Act) as the matters unnecessarily restrict the registration and licensing of person as plumbers, gasfitters, or drainlayers; and impose undue costs on plumbers, gasfitters, or drainlayers, and on the public.

31. The establishment of the Certifying and the Tradesman classes of registration starts with the competencies as listed in the notices. For example:

#### **Tradesman Plumber**

The applicant must demonstrate knowledge and, have the experience and practical ability to **install, test, commission, fault-find and maintain sanitary plumbing systems** through possessing competencies in the areas of:

- *Trade calculations and trade sciences*
- **Limitations in and the application** of material used in sanitary plumbing, including material protection and jointing methods

#### **Certifying Plumber**

The applicant must demonstrate the ability to **design, manage** the installation of and **verify** sanitary plumbing systems through possessing competencies in the areas of:

- *Trade calculations and trade science used in the design and installation of sanitary plumbing systems*
- *The selection of materials, their properties, applications and how they are used in the design and specification of sanitary plumbing systems*

A complete comparison sheet of the plumbing, gasfitting and drainlaying competencies is attached to this complaint.

32. The majority of the differences detailed in the comparison are to do with "design and manage" as inclusions in the Certifying Registration competencies. The remaining differences appear to be changes in the text but not the content. This issue will be discussed later.

33. Most plumbing, gasfitting and drainlaying design and standards are dealt with by other primary legislation such as the Building Act 2004 and the Gas Act 1992. The primary legislation dictates how relevant trades

than an action to protect the health and safety of the public.

71. In addition the two classes of registration create a supervision issue where Certifying Registration practitioners are required to “supervise” Tradesman Registered practitioners and can be held accountable through discipline action for failing to do so. This action is taken where no relevant training in supervision is given.

72. The Plumbers Gasfitters and Drainlayers Act 2006 (the Act) interprets supervision as: Supervision, in relation to any work, means that the work is undertaken under the control and direction of a person authorised under this Act to do the work or, in the case of sections 19, 21, 22, and 25, a person authorised to supervise work under those sections as is sufficient to ensure—

*(a) that the work is performed competently; and*

*(b) that while the work is being undertaken, appropriate safety measures are adopted; and*

*(c) that the completed work complies with the requirements of—*

*(i) regulations; and*

*(ii) in the case of sanitary plumbing or drainlaying, regulations under the Building Act 2004; and*

*(iii) in the case of gasfitting, regulations under the Gas Act*

perform their functions. This involves the methods and the alternate solutions. For example the installing of a wastepipe. The Building Code, G13 Foul Water dictates the pipe-sizing, the materials, the clipping, the relevant falls, jointing methods and the list goes on. This is the standard a Tradesman Registration plumber must work to.

34. In the case of a waste pipe the Building Code, G13 Foul Water sets the standard which must be achieved. It requires the safe disposal of foul water to prevent illness and the loss of amenity due to odor and accumulated matter. Under this clause, buildings in which sanitary fixtures and sanitary appliances using water-borne waste disposal are installed must be provided with adequate plumbing and drainage to appropriate outfalls or system for storage/treatment. This safeguards people from infection or contamination of the water supply. It sets out requirements for the construction of plumbing systems and protects against loss of amenity due to odour or accumulation of offensive matter from foul water disposal.

35. There is only one standard which must be met. There is not one standard for Tradesman Registered practitioners and another for Certifying Registered practitioners. The Board has created a situation where two classes of registration are working off one standard. For simplicity you could ask “what is a Certifying practitioner taught that a Tradesman practitioner isn’t to comply with relevant legislation?”

36. As there is only one standard in the Building Code then this must be the competency the Tradesman Registered practitioner is trained to and qualifies at. This brings us back to the difference between the Certifying competencies and the Tradesman competencies. As alluded to above the difference appears to be a change in text with the inclusion of “design and manage” in the competencies, however the content stays the same.

37. The Federation disputes the inclusion of “design and manage”, or requirements, being part of a requirement for registration. We don’t see a difference in what is expected of a Tradesman and a Certifying practitioner as detailed in the over-riding legislation. Going back to our example of installing a waste pipe there is no difference in the standard that is expected of a Certifying practitioner than that which is expected of a Tradesman practitioner. The unit standard is set for the Tradesman based on the Building Code and the unit standards are set to comply with the Building Code.

38. The Competencies from the PGDB do not define design and there are numerous definitions. This was discovered with regard to construction:

*The difference between architecture and design, architect and designer. ... Typically, the design follows the architecture phase in a (new) system development process. And while the architecture is rather "logical", the design is "physical", going down into the detail of the implementation technology.*

39. The design is "physical", going down into the detail of the implementation technology – so if applied to plumbing, gasfitting and drainlaying, the design has already been done in the relevant codes, legislation, regulations and standards. As tradespeople we apply those

1992.

73. This definition appears to be divided into two sections – that which applies to work undertaken under the control and direction of a person authorised under this Act to do the work and then the requirements for persons authorized to supervise exemption holders.

74. That first part of the interpretation from the Act is directed at ALL persons authorised under this Act to do the work. It is just presumed that a Certifier will know how to supervise. This interpretation puts the level and type of supervision into the hands of the authorized person.

75. The Board in setting regulations cannot impose more requirements over and above those stated in the legislation. These notices appear to do just that. The Acts interpretation of supervision appears to be a set of guidelines with no defined standards or obligations.

76. The notices outline additional requirements under the sub heading “supervision” found under the heading of “Terms and conditions of registration”. The following is taken from the Plumbing Notice and is similar for all three notices.

Supervision

(5) A certifying plumber must pay the prescribed fee for, and notify the Board of the name, address and telephone number of, every Exempt

codes, legislation, regulations and standards as detailed. The implementation standard and requirements have already been set.

40. These four definitions were obtained from the New Zealand Qualification Authority:

- Developing a design idea: Involves initiating, exploring and refining design ideas, informed by research, which leads to the communication of an outcome in response to a brief.
- Exploring a design idea: Is the divergent aspect of idea generation and the development of an idea to create a wide group of possibilities.
- Refining a design idea: Is the convergent aspect of developing an idea or ideas where the detail of the design solution is investigated in order to come up with a solution that has potential to work and meet the design brief.
- Function: How a product, system, or environment works or performs for its intended use or user; how something carries out its purpose. Key elements include strength, durability, efficiency, safety, stability, reliability, ergonomic fit, construction (and its cost), optimisation, user-friendliness, and fitness for purpose.

41. Being a tradesperson is the application of skills and knowledge. The Federation believes design to be a concept that does have an application in the industry but should not be a requirement for Registration. It certainly could be an advanced qualification for those whom wish to follow that path, however on a day to day basis design is not relevant.

42. Design is not plumbing, gasfitting or drainlaying as defined in the Plumbers Gasfitters and Drainlayers Act 2006 and therefore cannot be a requirement for registration.

43. There is a similar argument for the term “manage” as the PGDB have not defined manage in their competencies. The application of the term seems to imply “to take charge or care of”

#### **Tradesman Plumber**

*The effect of the installation of sanitary plumbing systems, or its components, on the integrity of structures; including weather tightness considerations as they relate to penetrations to the building envelope*

#### **Certifying Plumber**

*Management of the effect on the integrity of structures relating to the design and installation of sanitary plumbing systems; including weather tightness considerations as they relate to penetrations to the building envelope and the coordination with other services*

#### **Tradesman Plumber**

*Responsibilities relating to health and safety*

Person working under their supervision.

(6) A certifying plumber must notify the Board in writing if their supervision of any person ceases.

(7) A certifying plumber remains responsible for all sanitary plumbing undertaken by a person under their supervision until the Board has received written notification from them that they are no longer supervising that person.

(8) A certifying plumber must ensure that sanitary plumbing undertaken by persons under their supervision:

(a) is performed competently;

(b) is subject to appropriate safety measures; and

(c) complies with the requirements of all relevant regulations, including regulations made under the Building Act 2004.

**More of this section on supervision and more of the complaint to the Regulation Review Committee in the next issue of the Fellow Practitioner.**

## **Certifying Plumber**

*Responsibilities relating to **managing** health and safety*

44. Again there appears to be changes in the text but not the content.

45. Manage, management or similar are not plumbing, gasfitting or drainlaying as defined in the Plumbers Gasfitters and Drainlayers Act 2006 and therefore cannot be a requirement for registration.

46. A tradesperson applies knowledge and skills to protect the health and safety of the public and themselves. They control their actions on a daily basis and are responsible for their actions. There is no doubt management is an important function but it can't be a requirement for registration. It does not fall into the definition of plumbing, gasfitting or drainlaying as defined in the Act. The manage functions detailed in the Certifying competencies go hand in hand with other management functions such as financial control and administration.

47. It is quite evident that one class of registration has been divided into two classes for no perceived benefit for the health and safety of the public. It appears to have been for the benefit of employers, much to the detriment of apprentices and practitioners who now face the barriers and costs.

48. The division of the qualification has resulted in a number of issues affecting the plumbing, gasfitting and drainlaying industries namely the cost of obtaining two classes of registration, the barriers imposed on practitioners to obtaining the classes of registration and supervision requirements.

49. Of major concern is that apprentices are paying to obtain a qualification which results in them not being able to apply their trade unless they are supervised, unlike most other trades. This is saying they are not workplace competent even though they have been deemed competent in the relevant unit standards to a level required by relevant legislation. If they wish to go on to Certifying Registration then they incur another two years of training costs, which are not subsidized because it is not part of the apprenticeship, and then they incur a second round of registration costs.

**The saga continues on the side column.**

**We know its heavy reading but everyone in the industry needs to understand what the complaint is all about.**

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Plumbers Gasfitters and  
Drainlayers Federation 6  
Tacoma Drive, Totara Park,  
Upper Hutt 5018 Ph (04)  
5277977 Mob 0276564811  
Fax (04) 5277978  
[information@pgdf.co.nz](mailto:information@pgdf.co.nz)