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**IN OTHER NEWS**

**THE MEDIA THINKS ITS SOMETHING NEW**

An unlicensed builder has been prosecuted for portraying himself as a licensed builder - the first such prosecution since an amendment to the Building Act.

The LBP scheme was launched in November 2007 after an amendment to the Building Act 2004.

Only 12 years to get one prosecution, now that's got to be value for money!!

This seems to be a big deal for the media and the building industry but in reality it is a regular occurrence in our industry - we have people continually operating as unlicensed, who are unqualified as plumbers gasfitters and drainlayers.

Not only that, but the public pop into Bunnings, Mitre 10 Mega and other stores and full their boots with fittings so they can do their own plumbing gasfitting and

**REGULATION REVIEW COMMITTEE**



Over the last couple of editions of the Fellow Practitioner we have been reporting on the complaint to the Regulation Review Committee. This week is the conclusion of the report and we pick up on where we finished last edition discussing supervision.

*(9) A certifying plumber must ensure that all persons under their supervision:*

*(a) are competent to perform the tasks undertaken;*

*(b) are adequately supervised while carrying out sanitary plumbing;*

*(c) comply with all relevant regulations, including regulations made under the Building Act 2004; and*

*(d) can produce their current authorisation card issued by the Board on demand.*

*(10) A certifying plumber may nominate another currently licensed certifying plumber or tradesman plumber ("Nominated Person") to provide physical supervision of any person working under their supervision.*

*(11) A certifying plumber remains responsible at all times for all aspects of the work done by a person under their supervision even where they have nominated another certifying plumber or tradesman plumber to provide physical supervision of that work.*

*(12) A certifying plumber who is nominated to provide physical*

drainlaying.

Does the government care?  
No way they just let it continue to happen and leave it up to, the plumbers, gasfitters and drainlayers of this world to fund policing the public via our prosecution levy.

The big issue is WE pay to investigate such instances, where the builder's enforcement is paid for by the Ministry of Business, Innovation and Employment (i.e. the tax payer).

The funding of regulating our industry is just another one of those EXTRA TAXES we pay to work in our industry that the Government doesn't care about and that's not just this government but ALL the governments we have had for decades no matter what their political persuasion. Plumbers, gasfitters and drainlayers "wellbeing" doesn't come in to it at all!

It seems the LBP scheme was in place to ensure consumers could make informed decisions when it came to hiring builders to undertake restricted building work.

*Apparently "This type of offending brings the LBP scheme into disrepute and will not be tolerated. MBIE will not hesitate to prosecute people who commit offences under the Building Act and/or the Crimes Act."*

In the meantime OUR industry has to fight and fund the same issues WITHOUT ANY help. It's absolutely disgusting and disgraceful.

**There is no fairness** and getting something done about it is mission

*supervision of a person must promptly notify the person's supervising certifying plumber of any concerns they have about the work done by that person or the safety measures in place in respect of the work done by that person.*

*(13) A certifying plumber must ensure that, during the first 12 months of holding a limited certificate to do or assist in doing sanitary plumbing, a Trainee Plumber under their supervision works at all times in their presence or in the presence of a Nominated Person.*

*(14) A certifying plumber must ensure that, during the first 24 months of doing or assisting in doing sanitary plumbing under an exemption under section 19 of the Act, an Exempt Person under their supervision works at all times in their presence or in the presence of a Nominated Person.*

77. The Federation believes the Board's notice has stated terms and conditions that are beyond the intent of Section 4 of the Act and therefore have made unusual use on the powers imposed on them. They have imposed limitations on registered tradespeople with regard to supervision.

78. In the notice there is an unusual requirement that Certifiers are required to pay the prescribed licensing fee for, and notify the Board of the name, address and telephone number of every Exempt Person working under their supervision. It should be noted that the Board's last annual report showed there were 2,780 exemption licenses issued. Those exemption holders are not subject to the Act for discipline matters and are not required to do any training.

79. Those exemption holders are performing functions that apprentices could be doing and the manner in which exemptions are being dealt with seem to create an unregulated qualification within the industry where the individuals are not accountable and all accountability is imposed on the Certifying practitioners in the industry.

80. The imposition of a fee on the Certifier for the exemption holder appears to be the Board's attempt to regulate unqualified people. This fee imposed on Certifiers over the reporting period above would have amounted to \$250,200.00.

81. The annual report mentioned above showed there were 149 Journeyman licenses and 5,687 limited certificate trainee licenses issued. All needing supervision. In addition the annual report showed only 3,074 Registered Tradesman licenses issued. It should be noted that the number registered will differ from the number licensed as most registered practitioners are multiple license holders.

82. Under the Act and the notices there is no mention of the supervision of Tradesman Registered people. Under the classes of registration the Board has deemed these practitioners are not workplace competent and require them to be under supervision however they do not state the level of supervision and place the onus on the Certifier to ensure they are competent to do the work. Remember these people have already passed the unit standards to

impossible.

One of the issues the industry has is that everyone knows we are not a unified industry and they use that to their advantage the way that Maurice Williamson, the then Minister of Building and Construction, used Master Plumbers to support him with implementing retrospective legislation a few years ago.

If the industry could unify we would certainly be able to achieve a lot, but at this stage that seems very unlikely.

It's very difficult to take the government and bureaucrats on when there is no united front.

#### **THERE IS A LOT HAPPENING THAT AFFECTS US**

There is a lot going on that affects plumbers, gasfitters and drainlayers and we need to keep an eye on it all so that nothing gets snuck through that will have, or has had an adverse affect on our industry.

We need to be alert and communicate with each other as a type of insurance to protect ourselves.

At the moment there is the Review of the Plumbers Gasfitters and Drainlayers Act 2006. This commenced in 2013 so it is a huge piece of work and we really do look forward to what must be really outstanding work by the Ministry of Business, Innovation and Employment (MBIE).

You need to note that even if there are recommended changes to the Act it still has to be passed by parliament and could take years before

say they are competent.

83. The lack of difference between the requirements for Tradesman Registration and Certifying Registration is highlighted in the requirement of registered practitioners to participate in Continuing Professional Development (CPD) annually so they can re-license. There is only one level of CPD which all classes of registration must attend.

84. The Federation believes the manner in which the Act has been interpreted and implemented is an abuse of the powers inferred on the Board and as a result practitioners will incur exorbitant costs and barriers to registration.

85. In addition to the financial costs there is also the time commitment of supervision which is substantial and is sometimes a deterrent to employers employing people who need supervision.

86. The time commitment to supervision lessens productivity for the employer. Standing Order 319(2) (d)

87. The Federation considers the notices are contrary to Standing Order 310(2) (d) in that they unduly make the rights and liberties of persons dependent upon administrative decisions which are not subject to review on their merits by a judicial or other independent tribunal.

88. In this instance the Notices do not go far enough to detail an appeal process regarding examinations. This may be a fault of the legislation or the Notices but is a discrepancy that must be corrected.

89. The notices detail the examination criteria however the process and resulting polices do not allow for a right of appeal to, or review by and independent body or person.

90. An issue exists where if a practitioner questions the legitimacy of an exam question and the Board's marking schedule there is nowhere for them to appeal. They can get a re-count, they can get a re-mark but that re-mark will be based on the same making schedule and no comment or argument will be supplied to the marker doing the re-mark.

91. The Federation believes the current process is dependent upon administrative decisions which are not subject to review on their merits by a judicial or other independent tribunal.

92. This exact situation exists at the moment where a practitioner questions the legitimacy and accuracy of a number of exam questions and the answer schedule of an exam which he failed. That individual has spent in excess of \$40,000.00 in court and legal costs to get his right to be heard by and independent authority.

93. Where humans are involved there is always a risk of errors so there needs to be in place process and procedures to correct those errors. This is a basic right of all practitioners. Recommendations

any of the changes actually become law.

There is also the Vocational Education and Training review, the results of which are due to be released very soon. This will be very interesting as it affects the manner in which training will be provided to our apprentices and to those wanting future development.

This will also take years for changes to be implemented and for a stable training environment to be in place.

As you know from the main column there is the complaint to the Regulation Review Committee which will affect a lot in the industry if anything is done. No timeline has been put on this review by the Regulation Review Committee so that is a wait and see issue.

The Plumbers Gasfitters and Drainlayers Board Annual Report should be available soon so then we will know how the registration, licensing and funds are tracking.

If you have any ideas about how we could get a unified industry then send them in – we'd love to hear them and publish them.

94. The public's health and safety must be weighed against practitioner's rights to work, to free choice of employment, and to protection against unemployment in their chosen profession. Barriers to registration and licensing in the industry and undue costs must be avoided as stated in the Act.

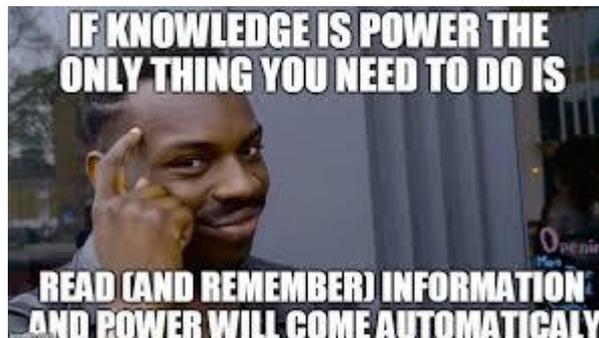
95. The general objects and intentions of the Plumbers Gasfitters and Drainlayers Act could be better achieved by the correct interpretation of the Act so the Board can refocus with an aim to encourage tradesmen to accept responsibility for their own work.

96. The heavy handed regulation that has been imposed could be replaced with a more harmonious environment by encouraging individuals and companies to understand and develop their roles in the industry. The rewarding of attainment of certain levels would be more appropriate than imposing barriers and costs.

97. The notices should be disallowed.

So there you have it, that's the complaint as submitted by the Federation. The complaint is in the hands of the Regulation Review Committee now so we are unable to comment on it any further but we would welcome your feedback.

## KEEP THE INFORMATION FLOWING.



There is an old saying that knowledge is power and in our case information means accountability.

In the side column we have discussed a few things that are happening. Keep your ear to the ground and keep the information flowing so we can push for fairness and accountability.

Send us your thoughts and important issues.

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