



Inquiry into the  
Plumbers,  
Gasfitters, and  
Drainlayers Board:  
Follow-up report





Office of the Auditor-General  
PO Box 3928, Wellington 6140

Telephone: (04) 917 1500  
Facsimile: (04) 917 1549

Email: [reports@oag.govt.nz](mailto:reports@oag.govt.nz)  
Website: [www.oag.govt.nz](http://www.oag.govt.nz)

# Inquiry into the Plumbers, Gasfitters, and Drainlayers Board: Follow-up report

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## Auditor-General's overview

In September 2008, the then Minister for Building and Construction (the Minister) wrote to the then Auditor-General to ask whether he would inquire into the way the Plumbers, Gasfitters, and Drainlayers Board (the Board) was carrying out its statutory functions – in particular, its registration and licensing functions. The Minister was concerned about the number and nature of complaints received about the Board, many of which suggested that the Board was not carrying out its core functions adequately.

The work of the Board is important. Through its registration and licensing processes, it controls entry to the plumbing, gasfitting, and drainlaying trades. Effective regulation of these trades is important for public safety. These trades are also important economically because they are necessary for an effective building and construction industry. Equally, the Board's decisions are important for the people who need licences to be able to work, and for the businesses that employ them.

We agreed to the request from the Minister and published the findings in my 2010 report *Inquiry into the Plumbers, Gasfitters, and Drainlayers Board*. The report identified problems throughout most aspects of the Board's work, including the need to embed basic administrative law disciplines into the Board's everyday work and decision-making. I made 15 recommendations that, if acted on, would address the most significant problems that I found. I noted that the Board had already started to address some of those problems.

In late 2013, my staff looked at the progress that the Board had made. The Board has taken my recommendations seriously and has worked hard to address them. The action that it has taken has moved it onto a more sure administrative and legal footing.

Overall, we saw much less to concern us during our follow-up work than we did in the period preceding my 2010 report. Problems were fewer, as the Board had addressed many legacy issues. The Board is much more transparent and has revised some policies that were weak or potentially unlawful. It has improved the quality of its examinations. Candidates achieve pass rates of about 70% and higher, compared to about 30% at the time of our inquiry.

The number of complaints about the Board by tradespeople since our last review was small, and few were about recent matters. Consultation with the industry had become more robust. Staff reported a healthier organisational culture.

However, my Office continues to receive complaints each year from plumbers and gasfitters. Most of the correspondence we receive is directly or indirectly about costs, and the effect that they have on tradespeople's livelihoods.

There is no doubt that the costs of regulation fall heavier on the group of trades that the Board regulates than some other regulated workers. The Board regulates a much smaller number of tradespeople than, for example, the Electrical Workers Registration Board or the Building Practitioners Board. It is entirely funded by tradespeople, and it has a unique role in prosecuting unregistered and unlicensed people carrying out unlawful work. The result is that costs to plumbers, gasfitters, and drainlayers are higher than the costs for some other tradespeople.

As the Board struggles to balance carrying out its responsibilities at a cost that is acceptable to the trades, its relationship with some tradespeople remains strained and less than productive.

I make no further recommendations in this report because I am satisfied that the Board now has the arrangements in place to properly govern and manage. However, I consider legality is an aspect that the Board needs to keep focusing on, due to the complexity of the Plumbers, Gasfitters, and Drainlayers Act 2006. I also encourage the Board to review its Supervision Policy in the next few months.

I thank the Board and its secretariat for their help during this follow-up work. I also acknowledge the tradespeople and representatives of other sector organisations who also contributed.



Lyn Provost  
Controller and Auditor-General

21 May 2014

## Progress on our recommendations

This report contains several suggestions for further improvement, but we make no further recommendations. Some of these suggestions are not in the direct control of the Plumbers, Gasfitters, and Drainlayers Board, and need attention as part of the wider review of occupational registration and licensing. We expect that the Board and the Ministry of Business, Innovation, and Employment (MBIE) will build these suggestions into their routine business plans.

The table below summarises the Board's progress in addressing the 15 recommendations in our 2010 inquiry report.

	<b>We recommended that the Plumbers, Gasfitters, and Drainlayers Board:</b>	<b>Progress by the end of 2013</b>
1	... review its Licensing Policy Statement to ensure that it complies with the Plumbers, Gasfitters, and Drainlayers Act 2006 and administrative law principles.	Complete. The Board withdrew the Licensing Policy Statement and replaced it with more specific policies. However, the policy on exemptions under sections 12-25 raises further matters.
2	... discuss with the Department of Building and Housing whether mechanisms under the Plumbers, Gasfitters, and Drainlayers Act 2006 are clear and appropriate for controlling the work of exempt people carrying out plumbing, gasfitting, or drainlaying work.	Partly complete. The Board has stated its case to MBIE, which is now the relevant ministry. This will be considered in the review of the Plumbers, Gasfitters, and Drainlayers Act 2006, which is being scoped.
3	... revise its Licensing Policy Statement to include a discussion of how it defines "supervision".	Complete. The Board has a Supervision Policy in place and has consulted twice recently on changes. However, we have some concerns about the Supervision Policy.
4	... review its Registration Policy Statement to ensure that it complies with the Plumbers, Gasfitters, and Drainlayers Act 2006 and administrative law principles.	Complete.
5	... write further policies to guide the exercise of its other powers under the Plumbers, Gasfitters, and Drainlayers Act 2006 and, in doing so, that it carefully consider the legal basis for such policies.	Complete, but see Part 3 about the sections 12-25 Exemptions Policy and the Supervision Policy.
6	... consider with the Department of Building and Housing whether the legislation needs to be amended to deal with registration and licensing issues.	Continuing. The Board has submitted views to MBIE in writing three times since July 2012, and has met MBIE on other occasions.

	<b>We recommended that the Plumbers, Gasfitters, and Drainlayers Board:</b>	<b>Progress by the end of 2013</b>
7	... in preparing questions for any future examinations, ensure that the questions are appropriate for assessment under the Plumbers, Gasfitters, and Drainlayers Act 2006, are able to be answered, are free of mistakes, and do not contain unrealistic scenarios.	Complete.
8	... review its processes for preparing and moderating questions, and for setting examination papers.	Complete.
9	... work with the Ministry of Economic Development and the Department of Building and Housing to consider what changes may be needed to enable the gas certification system to operate as an effective public safety protection.	Our findings contributed to an industry-wide review of gas certification later in 2010. This led to reform to clarify legal roles and responsibilities around installations and certificates. The Board is operating within the new legislative framework.
10	... work closely with the Ministry of Economic Development and the Department of Building and Housing to develop a gas audit process that provides adequate assurance of the safety of self-certified gas installations.	
11	... review its policies for registering well-qualified and experienced plumbers and gasfitters migrating to New Zealand to ensure that its current policies give appropriate effect to its statutory discretion and to ensure that New Zealand makes the best use of the skills of such immigrants.	Complete.
12	... clarify whether it can issue provisional licences to overseas plumbers, gasfitters, and drainlayers before they apply for registration.	Complete.
13	... maintain and embed a practice of reviewing all of its fees and charges against the good practice guide, <i>Charging fees for public sector goods and services</i> , to ensure that it is budgeting and setting fees in keeping with its legal authority and good practice expectations.	Complete.
14	... establish a simple and effective complaints process for tradespeople who are unhappy with a particular Board decision or action, so that there is an accessible and transparent mechanism for getting a prompt review of a decision or action.	Complete.
15	... establish an immediate and short-term process for considering and resolving grievances arising from Board decisions that may have wrongly disadvantaged a tradesperson.	Complete.

# Part 1

## Introduction

- 1.1 In this Part, we explain:
- what the Plumbers, Gasfitters, and Drainlayers Board (the Board) is;
  - why we carried out our follow-up work; and
  - the scope of our follow-up work.

### The Plumbers, Gasfitters, and Drainlayers Board

- 1.2 The Board has existed in some form since 1912. The Plumbers, Gasfitters, and Drainlayers Act 2006 (the Act) controls how the Board operates.
- 1.3 The Act sets out the Board's functions, powers, and duties. We discussed most of these in *Inquiry into the Plumbers, Gasfitters, and Drainlayers Board* (our 2010 report). This reported on our inquiry into the Board and the way it carried out its functions during the period from 2008 to early 2010.

### Why we carried out our follow-up work

- 1.4 Our 2010 report identified problems in the way that the Board carried out most of its functions. The problems differed for the various functions but included:
- unclear or non-existent policies;
  - poor communication;
  - decisions and policies that were not clearly grounded in the legislation; and
  - little awareness of the need to embed basic administrative law disciplines into the Board's everyday work and decision-making.
- 1.5 In our 2010 report, we recognised that the Board had made some progress, but made 15 recommendations for action.
- 1.6 We carried out our follow-up work to check the Board's progress in addressing our recommendations. Since we published our 2010 report, there have been changes to gas certification law, which have affected two recommendations. We considered this change, and the Board's progress addressing the other 13 recommendations.

### Scope of our follow-up work

- 1.7 Our follow-up work focused on the Board's actions between 2010 and 2013 to address our recommendations.
- 1.8 We did not repeat all the fieldwork we carried out for the 2010 report. For example, we did not audit files of individual tradespeople and we carried out the fieldwork over three months rather than more than a year. We did not hire industry experts to assess the Board's examination questions as we did in 2009.

- 1.9 Where appropriate, we use findings and opinions of other government bodies.
- 1.10 We carried out our follow-up work on two levels:
- a high-level check of progress against all our recommendations; and
  - a more detailed review of a sample of matters, to ensure that the Board's decision-making now embeds basic administrative law disciplines.
- 1.11 In Part 2, we update our findings and recommendations on organisational matters (Parts 2 and 9 of our 2010 report).
- 1.12 In Parts 3 to 8, we report on progress against our other recommendations. Parts 3 to 8 follow the same order as our 2010 report, namely:
- Part 3 – Role during apprenticeships and training;
  - Part 4 – The registration and licensing system;
  - Part 5 – The examination system;
  - Part 6 – Gas certificates and gas audits;
  - Part 7 – Overseas applicants; and
  - Part 8 – Fees and charges.

## Part 2

# Organisational matters

- 2.1 In this Part, we report on the progress that the Board has made in the last three years on the problems identified in Parts 2 and 9 of our 2010 report. These problems related to:
- organisational culture;
  - capacity and capability;
  - legality;
  - policies and procedures; and
  - creating effective accountability.
- 2.2 Our 2010 report was critical. Among other things, it revealed:
- a lack of clear or comprehensive operational policies to guide and explain the way the Board gave effect to its statutory tasks;
  - inadequate policy and strategic capacity, so the Board had not been able to ensure that its legal and regulatory environment had kept pace with needs;
  - poor relationships with other organisations;
  - a Board struggling with the effects of high turnover, and with the challenge of carrying out a high disciplinary workload; and
  - an unhealthy organisational culture, with unhappy staff and a lack of openness and accountability to the trades that fund the Board and that it regulates.

### Summary of progress

- 2.3 In 2013, we found a significantly changed and improved organisation, which had largely delivered a challenging programme of work to remedy the problems that we had found during our original inquiry. The Board had rebuilt many relationships. The Board still faces some challenges, and some of the changes it has made are relatively recent. The Board has addressed the majority of the legality problems we found in 2010, although a few remain and present a risk to the Board and its reputation.
- 2.4 We saw much less to concern us during our follow-up work than we did in the period preceding our 2010 report. Problems were fewer, as the Board had addressed many legacy issues. The number of complaints was small, and very few were about recent matters. Consultation with the industry had become more robust, and the Board had rebuilt its working relationships with all but one organisation. Staff reported a healthier organisational culture. The Board had gone far towards being more transparent and had enjoyed a stable period of Board membership.

- 2.5 Our 2010 report made two recommendations on organisational matters, but commented on several other aspects. Figure 1 summarises the progress against the recommendations, with further detailed findings in paragraphs 2.6-2.54.

**Figure 1**  
The Board's progress in addressing recommendations 14 and 15

	We recommended that the Plumbers, Gasfitters, and Drainlayers Board:	Progress by the end of 2013	Relevant paragraphs in this report
14	... establish a simple and effective complaints process for tradespeople who are unhappy with a particular Board decision or action, so that there is an accessible and transparent mechanism for getting a prompt review of a decision or action.	Complete	2.40-2.45
15	... establish an immediate and short-term process for considering and resolving grievances arising from Board decisions that may have wrongly disadvantaged a tradesperson.	Complete	2.46-2.51

## Organisational culture

- 2.6 The Board is now more open and transparent than it was and communication has improved. Positive changes include more frequent publishing of its *Info brief* newsletter, with a mix of news, features, and information. Reader satisfaction with *Info brief* is high at 92%, but four in 10 tradespeople say they do not read it.<sup>1</sup> Board members have organised open meetings throughout the country to hear from tradespeople directly. The Board's website is clearer and policies are easy to access.<sup>2</sup>
- 2.7 The Board has an *Output Agreement* that sets out what it is accountable for to the Minister of Building and Construction. The Board publishes the *Output Agreement* on its website. The Board's Annual Plan, which is also on the website, reports progress against the agreement.
- 2.8 The Board is better at consulting tradespeople than it was in 2009. Consultation occurs when it is considering making major changes to the way it carries out some of its functions. More information accompanies consultation invitations and the rationale behind proposals is better explained. The Board puts the replies it gets, with an analysis of matters raised, on its website. However, satisfaction with the way the Board communicates its final decisions fell to 54% in the 2014 National Research Bureau (NRB) survey, from 60% in 2013. This could suggest that the Board over-relies on its website and *Info brief* as methods of communication.

1 The National Research Bureau (NRB) surveyed 405 tradespeople in January 2014.

2 The Board's website is at [www.pgdb.co.nz](http://www.pgdb.co.nz).

Alternatively, the lower satisfaction score could reflect people disagreeing with the outcome, irrespective of how the Board communicated its decisions.

- 2.9 We saw evidence of the Board modifying proposals and decisions after consulting tradespeople. This shows that the Board is listening to the opinions it receives. For example, the Board has decided not to put in place a plan for random audits of tradespeople as a way of assessing competency. The Board considered that it did not have the support of the trade after consultation on the proposal.
- 2.10 We met staff from all parts of the Board's secretariat. All staff had a clear understanding of their role and reported an improved working environment. They felt better supported by policies, information, and their managers than before. Although the conversations they have with some tradespeople can still be challenging, confrontational exchanges happen less often.
- 2.11 Staff considered that the Board and managers had been overwhelmed by how much needed fixing immediately. As a result, good project management was sometimes sacrificed. For example, some staff were concerned that the Board acted too quickly at times and in doing so laid the organisation open to unnecessary criticism. Staff mentioned the way that the continuing professional development (CPD) scheme was introduced as one example of this. The consensus of staff was that they felt that there was now more space to be proactive and to manage projects well from start to finish.
- 2.12 Relationships with other organisations in the sector have significantly improved. During our follow-up, we spoke to representatives from:
- the Ministry of Business, Innovation, and Employment (MBIE);
  - the Skills Organisation (the successor body to the Plumbing, Gasfitting, and Drainlayers training organisation);
  - Master Plumbers, Gasfitters & Drainlayers NZ (Master Plumbers); and
  - the Plumbers, Gasfitters, and Drainlayers Federation (the Federation).
- 2.13 MBIE, the Skills Organisation, and Master Plumbers report improved relationships and a willingness by the Board to be involved in discussions about the industry. This is a marked improvement from when the Board had become increasingly isolated.
- 2.14 The chief executive, the head of the Board's secretariat, now communicates regularly with MBIE. For example, there have been recent discussions on allegations of unlicensed and unregulated work taking place in Christchurch. The Board has also discussed matters arising from the Act with MBIE.

- 2.15 The Board has been working alongside the Skills Organisation and the New Zealand Qualifications Authority (NZQA) on several matters, including incorporating the Board's examinations into National Certificates at level 4.
- 2.16 Relationships with Master Plumbers are formal and business-like. Master Plumbers are happy with the consultation opportunities they get from the Board. They broadly agree with the Board about most of its proposals, with a few exceptions. They are usually content with the way that the Board deals with their comments and representations.
- 2.17 Relations with the Federation are still difficult. Two founding members of the Federation have been right in two representations that they made on aspects of the Board's operations, and the Board could have listened better. We discuss these matters in paragraphs 2.37 and 2.38.
- 2.18 However, the Federation has raised many queries, and we acknowledge that the Board faces difficulties trying to respond. Many organisations that face an active group lobbying for change and scrutinising decision-making have this challenge. We note that the Ombudsman published a helpful report on managing complainant conduct. This publication suggests many strategies to manage the workload arising from complaints.<sup>3</sup>
- 2.19 Although we acknowledge that this has been a challenging matter, the Board needs to try better to work with the Federation. Board members acknowledge that this is important, and spoke of wanting to improve communication with the Federation.
- 2.20 We have suggested again to the Board that they put the minutes of the Board meetings online, with only personal information removed. This is common practice in other public entities, such as local authorities. This should mean that the Board receives fewer official information requests and, in the end, reduce the administrative burden of servicing those requests.

### Capacity and capability

- 2.21 In our 2010 report, we identified that a lack of strategic and policy capability in the Board over many years had been at the root of the problems that we found. Responsibilities of managers, board members, and legal staff had sometimes blurred. Some lacked the experience to lead work on complex policy matters. Since then, the Board has increased its strategic capability. Board members and the secretariat staff now have a clearer understanding of roles and responsibilities, and more experience in managing organisations. Without this additional capacity, it is unlikely that the Board would have made as much progress on policy.

<sup>3</sup> Office of the Ombudsman (2012), *Managing unreasonable complainant conduct – short guide*.

- 2.22 After our 2010 report, turnover of Board members at first increased. Nine out of ten members left between March 2010 and January 2011. Since then, board membership has remained relatively stable. Members have served their full term of office and a few have been reappointed for a second term. The chairman stood down at the end of his term of office in January 2014, and was succeeded by the deputy chairman after a vote by the Board.
- 2.23 The disciplinary workload for Board members remains high. If an investigator considers that there is a case to answer following a complaint against a registered and licensed tradesperson, five members of the Board must hear the case. Some members of the Board consider that there is potential to divert more people away from disciplinary action and towards competency reviews, but this would need changes in the Act.
- 2.24 More legal work on District Court prosecutions was brought back in-house, leading to the Board employing an additional solicitor and planning to spend less on external legal support.
- 2.25 The Board is a statutory body, and is not part of a Crown entity. Because of that different legal status, the Board has no access to some of the support and advice that other occupational licensing boards in the building and construction sector have. For example, the Board cannot routinely call on MBIE resources for second opinions, and the secretariat does not get relevant government circulars. This increases the risk that the Board makes decisions using a narrow range of advice.
- 2.26 The improvements in capacity and capability have led to a better-managed organisation, but it has come at a financial cost. We discuss how this cost affects fees and charges in Part 8.

### **Policies and procedures**

- 2.27 The Board has put significant effort into developing policies. More and better policy documents are now available on the Board's website. Some operational guidance is still being prepared, but staff have guidance on major aspects of carrying out their roles.
- 2.28 As part of this follow-up, we looked at 18 policies available on the Board's website. Sixteen raised no significant matters for us. However, the Provisional Licences Policy, one of the 16, was ambiguous in one aspect. When we raised this concern with the Board, it agreed to revise the Provisional Licences Policy.
- 2.29 We had more serious concerns about the policy on the exemptions in sections 12-25 of the Act, and the Board's Supervision Policy. We detail these concerns in Part 3.

- 2.30 Our overall judgement is that the Board's policies are significantly better than in 2010. The policies are usually short, convey some complicated matters in a relatively uncomplicated way, and cover most of the Board's operations.

### Legality

- 2.31 In 2010, we had wide concerns about the Board's approach to its legal mandate. In our 2010 report, we stated that we expected the Board to place the matter of legality at the centre of its work. We expected to see:
- a clear and obvious basis for all of the Board's operating policies and decisions in the legislation; and
  - that the Board makes decisions transparently and has natural justice protections built in at every stage.
- 2.32 Our 2013 follow-up work tested additional matters outside our original recommendations, as well as the matters that the Board could expect us to look at. We did this to get some assurance that the Board had adopted better ways of working to carry out all its functions.
- 2.33 We found a more detailed knowledge of the Act, and more legal capacity, specifically in administrative law. As a result, most of the policies and decisions we reviewed had a clear legal basis.
- 2.34 Our 2013 scope included reviewing a sample of decisions that the Board made from July 2012 to December 2013. This sample showed that board papers usually set out in detail the legal basis on which the Board made decisions and exercised its powers. We found one instance where the Board sought legal advice only after it had made a decision, but the legal opinion supported the decision. Board staff had completed training in compliance matters relating to the Board's new policies.
- 2.35 In 2010, we had serious concerns about how the Board made some decisions about individuals, and a lack of information on procedural rights. Since then, the Board has addressed many of our concerns and clearly set out the rights of individuals in correspondence.
- 2.36 There have been two major challenges on Board decisions since we carried out our inquiry.
- 2.37 In December 2011, the Board published a *Gazette* notice to prescribe a disciplinary levy and an offences fee. The Board then charged tradespeople these fees. A number of tradespeople objected and challenged the legal basis for the fees. The arguments in the matter are long, and have been looked at by the Office of the

Ombudsman<sup>4</sup> and the Regulations Review Committee (RRC).<sup>5</sup> RRC acknowledged that the drafting of the Act had led to an untenable position for the Board. The fees, and therefore the Board's decision, were validated in retrospective legislation in 2013. The Act was also amended to fix the problem for the future.

- 2.38 The second example of a decision made on an unsound legal footing was the introduction of the CPD scheme. On 24 March 2010, the Board published requirements for CDP in a *Gazette* notice. This *Gazette* notice was the subject of further complaints to the Ombudsman and the RRC, which upheld some parts of the complaints about unsatisfactory consultation but rejected other aspects. The Board has since re-consulted and amended the *Gazette* notices.
- 2.39 In summary, we now have few concerns. The risk around legality has decreased because the Board has put in place better policies that cover a greater amount of its work. The Board had addressed the majority of the legal problems we reported on in our inquiry. However, we consider that legality is an aspect that the Board needs to keep focusing on, because of the Act's complexity.

## Creating effective accountability

### Practical complaints mechanism for people with concerns about the Board's actions or decisions

- 2.40 In 2010, we recommended that the Board introduce a simple and effective complaints process. This was so that there would be an accessible and transparent mechanism for tradespeople to get a prompt review of a decision or action of the Board. We saw this as being an important way of changing the Board's culture and its relationship with those it regulates. In response, the Board approved the General Complaints Resolution Policy on 28 June 2011.
- 2.41 Since this policy was approved, there have been 26 general complaints. This is a small number of complaints when considering the number of registered tradespeople, but some tradespeople may not have thought they were eligible to complain.
- 2.42 Two of the 26 did not proceed beyond the earliest stages. Nine others related to transitional arrangements from the Plumbers, Gasfitters, and Drainlayers Act 1976 (the 1976 Act) to the 2006 Act. Two of the complaints related to examination results. There was no obvious pattern to the remaining 13, six of which were lodged by two complainants.

4 See "Complaints by Mr Wal Gordon against the Plumbers, Gasfitters and Drainlayers Board relating to a disciplinary levy, continuing professional development and refusal of licensing for non-payment of fee or levy" on the Ombudsman's website: [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz).

5 See "Complaints about two notices made by the Plumbers, Gasfitters and Drainlayers Board relating to an offences fee" on the Parliament website: [www.parliament.nz](http://www.parliament.nz).

- 2.43 The Board's website has a section on how to complain that is easy to find and navigate around. It contains concise information that is mostly in plain English. A freephone number is included for those who need more guidance. This means that anyone who wants to raise a complaint should find it relatively easy to do so. We visited the websites of five other occupational licensing boards and did not find any information on how to complain about decisions of those boards (sometimes called councils). The Board is showing good practice by being open about how people can complain.
- 2.44 The General Complaints Resolution Policy is short and to the point. This means that it is relatively easy to read. However, it has a number of exclusions, some of which are not easy to understand.
- 2.45 We found the wording of the policy to be confusing in one aspect. It is a policy on general complaints, but it says that the Board does not accept complaints of a general nature. The Board told us that this means complaints have to be about a specific matter, rather than expressions of overall dissatisfaction. The policy also states that a complainant has to show personal disadvantage. We consider that these two requirements make the policy more restrictive than it needs to be.

### **Addressing past grievances**

- 2.46 On 26 April 2011, the Board adopted a historical complaints resolution policy, and appointed an external assessor (a Queen's Counsel) recommended by the New Zealand Law Society.
- 2.47 The Board received eight complaints, one of which was outside the scope of the policy.
- 2.48 We do not have a view on the decisions of the assessor or those of the Board, but we looked at the rigour of the process. The process was robust. In most instances, the Board apologised, and offered remedies to the complainants.
- 2.49 We are aware that some tradespeople did not take up the remedies offered, because it was not their desired outcome. They continue to be aggrieved about their previous treatment. Some have taken their cases to the Ombudsman.
- 2.50 In reviewing the nature of the historical complaints, we concluded that the events that led to most of them are unlikely to recur.
- 2.51 Addressing the problems from the past was a big step for the Board to take, and we are satisfied that it saw it through.

### Stakeholder survey

- 2.52 The Board annually surveys the tradespeople that it regulates. This survey gives a broader signal of satisfaction than the complaints process. The telephone survey, carried out by the NRB, is in its third year. The survey includes current licence holders who have a landline telephone. The NRB uses a random sample to get 405 responses.
- 2.53 In 2014, 83.3% of people who had contacted the Board in the previous year were fairly or very satisfied with the overall service. This was up from 80.3% reported in the 2013 survey. The biggest percentage rise was in people saying they felt their needs had been understood. This went up from 79.2% in 2013 to 87.3% in 2014. Tradespeople were more satisfied with the timeliness of response (85.7% in 2014) than they were in 2013 (80.3%). These figures are positive, and perhaps reflect the work that the Board has carried out in the last three years.
- 2.54 However, people were less satisfied (down from 66.8% to 62.5%) with the registration and licensing process. When asked what would improve their satisfaction, fees and the CPD scheme got the most mentions. The period surveyed included the first year in which plumbers and drainlayers had to complete CPD in order to relicence. We discuss fees further in Part 8.



## Part 3

# Apprenticeships and training

- 3.1 In this Part, we give an update on the Board's progress with the recommendations that we made about how it carries out its role in relation to those who are in apprenticeships or training, or who are working without full qualifications. Under the Act, only those working under an apprenticeship or who are in training need limited certificates from the Board in order to carry out plumbing, gasfitting, or drainlaying. Other unqualified people can do some plumbing, gasfitting, and drainlaying work under statutory exemptions.
- 3.2 We discuss changes in the way the Board deals with:
- exemptions; and
  - supervision.

### Summary of progress

- 3.3 By 2013, the Board had addressed many of the problems that we identified in its Licensing Policy Statement. However, in relation to exemptions under supervision, the problems remained, as the Board had transferred some of its previous policy into new policies unchanged. The Supervision Policy that we recommended has been written, but we consider that it has introduced requirements that go beyond the Act and *Gazette* notices.
- 3.4 Our 2010 report made three recommendations about apprenticeships and training. Figure 2 summarises the progress against these recommendations, with further detailed findings in paragraphs 3.4-3.23.

**Figure 2**  
The Board's progress in addressing recommendations 1, 2, and 3

	We recommended that the Plumbers, Gasfitters, and Drainlayers Board:	Progress by the end of 2013	Relevant paragraphs in this report
1	... review its Licensing Policy Statement to ensure that it complies with the Plumbers, Gasfitters, and Drainlayers Act 2006 and administrative law principles.	Complete. The Board withdrew the Licensing Policy Statement and replaced it with more specific policies. However, the policy on exemptions under sections 12-25 raises further matters.	3.5-3.16

2	... discuss with the Department of Building and Housing whether mechanisms under the Plumbers, Gasfitters, and Drainlayers Act 2006 are clear and appropriate for controlling the work of exempt people carrying out plumbing, gasfitting, or drainlaying work.	Partly complete, The Board has stated its case to MBIE, which is now the relevant ministry. This will be considered in the review of the Act, which is being scoped.	3.17
3	... revise its Licensing Policy Statement to include a discussion of how it defines "supervision".	Complete. The Board has a Supervision Policy in place but has consulted twice recently on changes. We have concerns about the Supervision Policy.	3.18-3.23

## Exemptions

- 3.5 In 2010, we had concerns that the Board was purporting to regulate people working under the exemptions in sections 19, 21, and 25 of the Act.
- 3.6 These exemptions allow people, including members of the public, to carry out plumbing, gasfitting, and drainlaying work without getting any approval from the Board. However, they must be supervised by someone who is appropriately qualified. In 2010, the Board's Licensing Policy Statement set out how it approached these exemptions. We had concerns that the approach amounted to regulating the work of people covered by these exemptions when the Board had no legal power to do so. It had previously regulated some of these people under the 1976 Act, but the 2006 Act removed that power.
- 3.7 In 2010, the Board confirmed that it was legally unable to regulate these exempt people, but it was able to regulate their supervisor.
- 3.8 By 2013, the Board had written a new policy regarding the exemptions under sections 12-25, but had carried forward the same requirements from its Licencing Policy Statement.
- 3.9 As set out in our 2010 report, we accept that the Board is able to place conditions on the supervising person to ensure that the work that they are responsible for is safe. The Board has done this by setting out those requirements in *Gazette* notices.
- 3.10 We had, and still have, concerns that the *Gazette* notices already go too far in prescribing matters to do with supervision of exemption holders. We discuss these concerns in paragraphs 3.21 and 3.22.
- 3.11 There are a few other, more minor, problems with the sections 12-25 Exemptions Policy. This policy is posted on the Board's website under *Granting of exemptions*

*under sections 12-25 policy.* This implies that the Board has to grant exemptions under sections 12-25 of the Act. The paragraphs on exemption under supervision:

- do not make clear that the Board's approval is not required for the person using the exemption; and
- appear late in the document.

- 3.12 In our 2010 report, we raised three other matters regarding exemptions, although we made no recommendations.
- 3.13 The Licensing Policy Statement said that, if a trainee plumber, gasfitter, or drainlayer stopped training, their limited certificate would be automatically revoked. In our 2010 report, we noted that we did not consider that the Board had the legal power to deem that a limited certificate was automatically revoked.
- 3.14 The Board's current sections 12-25 Exemptions Policy, which applies to limited certificate holders, now provides that the Board will write to an exemption holder to inform them of why it is considering cancelling the exemption. The Board gives the person a reasonable opportunity to make a written submission and to meet with the Board to discuss the matter. This is a good example of embedding natural justice in policy development.
- 3.15 The Licensing Policy Statement at the time set out that the Board could impose terms and conditions on exemptions granted by the Board under section 18 of the Act. This has been removed in the sections 12-25 Exemptions Policy because the Board accepted that it had no authority to impose terms and conditions on exemptions issued under section 18.
- 3.16 We commented on the Board placing a one-year time limit on exemptions issued under sections 18 and 24 in the Licensing Policy Statement. We could not see the legal basis for this. This remains the case, because the Board has a policy that it grants exemptions for a time that coincides with a single licensing period. The Board considers it appropriate that it be able to make a judgement on the competence of such exemption holders on an annual basis, just as it does for registered tradespeople. However, we consider that this remains open to challenge.
- 3.17 The Board intends to work with MBIE to reduce the number of exemptions in the Act. The Board considers that failure to remove some of the exemptions effectively deregulates part of the industry. Although we agree that some of the exemptions appear to be unnecessarily complicated, we cannot express a view on what the intent of the exemptions was or whether they remain relevant in a more modern world.

## Supervision

- 3.18 Many of the exemption and licensing conditions require people to carry out work under supervision. We set out our concerns about the Board's approach in 2010 in paragraph 3.6. At that time, the Licensing Policy Statement did not explain how the Board would interpret and apply the definition of "supervision" in the Act to its roles in licensing, monitoring, and granting exemptions.
- 3.19 On 27 March 2012, the Board put in place a separate Supervision Policy. It reviewed that policy on 10 December 2013. The Supervision Policy states the Board's expectations in relation to supervisors, those they supervise, and supervision arrangements. It also sets out the Board's process for approving and monitoring supervision arrangements.
- 3.20 We reviewed the Supervision Policy. The supervision requirements that a tradesperson must meet are determined by whether:
- the definition of "supervision" in the Act applies to them; or
  - the supervision requirements in their licence apply; or
  - both the definition in the Act and supervision requirements in their licence apply.
- 3.21 The policy should then guide the Board in how to assess whether a tradesperson has met the requirements of the Act or their licence conditions. The policy cannot go outside the legal requirements or impose additional requirements on tradespeople.
- 3.22 We are concerned that the Supervision Policy still has many of the same problems we reported on in 2010. These problems relate to how the policy applies to people working under supervision under an exemption. Additionally, it sets out some of the Board's expectations as requirements, which implies that they are mandatory. The Board told us that previous Board members had not agreed with our concerns in 2010. The current Board are not as certain. We have passed on our detailed concerns to the Board, and it is reconsidering its position.
- 3.23 We are aware that the Board considers that the definition of "supervision" in the Act is too vague, and are asking for this to be considered in the planned review of the Act by MBIE (see paragraph 4.10). We can also see that the Board consulted in September 2013 with tradespeople on proposals for revisions to the Supervision Policy. Because the review of the Act may take some time, we encourage the Board to review its Supervision Policy in the next few months, taking into account the problems that we have identified.

## Part 4

# Registration and licensing

- 4.1 The processes and requirements for registration and licensing changed when the Act came into force. We set these out in paragraphs 4.51-4.57 of our 2010 report.
- 4.2 In 2010, we reported that:
- the Board's systems for processing registration and licensing applications worked reasonably well;
  - the Board's record keeping had improved; but
  - we had concerns about the legality of some aspects of the Board's Registration Policy Statement and Licensing Policy Statement.

### Summary of progress

- 4.3 The Board has addressed most of the matters that needed attention after our 2010 report. This is a considerable volume of work.
- 4.4 Figure 3 shows the Board's progress addressing recommendations 4, 5, and 6 in our 2010 report. Further details are provided in paragraphs 4.5-4.11 of this report.

**Figure 3**  
The Board's progress in addressing recommendations 4, 5, and 6

	We recommended that the Plumbers, Gasfitters, and Drainlayers Board:	Progress by the end of 2013	Relevant paragraphs in this report
4	... review its Registration Policy Statement to ensure that it complies with the Plumbers, Gasfitters, and Drainlayers Act 2006 and administrative law principles.	Complete	4.5
5	... write further policies to guide the exercise of its other powers under the Plumbers, Gasfitters, and Drainlayers Act 2006 and, in doing so, that it carefully consider the legal basis for such policies.	Complete, but see Part 3 about the sections 12-25 Exemptions Policy and the Supervision Policy.	4.9
6	... consider with the Department of Building and Housing whether the legislation needs to be amended to deal with registration and licensing issues.	Continuing. The Board has submitted views to MBIE in writing three times since July 2012, and has met MBIE on other occasions.	4.10-4.11

## Registration Policy Statement and Licensing Policy Statement

- 4.5 The Board has prescribed requirements for registration, published them as *Gazette* notices, and approved a new Registration Policy that came into effect on 1 December 2013. We found no problems with the new Registration Policy. The new policy clarifies how the Board works out whether an applicant for registration or licensing is a “fit and proper person” as required by sections 36, 44, and 51 of the Act. Another policy details how the Board exercises its powers to exempt people under section 52 of the Act. These policies address deficiencies that we identified in our 2010 report.
- 4.6 In 2010, we identified problems with the Board’s Licensing Policy Statement. We discuss the exemption and supervision problems in Part 3 of this report. Part 4 of our 2010 report contains more details on the other matters we identified. In summary, these were:
- registered and certifying gasfitters were required to participate in gas audits as a condition of their licence, but we could see no clear legal basis for this; and
  - the Licensing Policy Statement provided for provisional licences only for overseas applicants, when there might be other instances where it is appropriate to grant a provisional licence. We queried whether the Board could grant provisional licences to overseas people in the way that it was proposing.
- 4.7 On 13 November 2012, the Board adopted a new Licensing Policy. On 11 February 2014, it reviewed the Licensing Policy. The Board has removed the requirement for gasfitters to participate in gas audits from the terms and conditions of their licences.<sup>6</sup> Therefore, this requirement does not appear in the Licensing Policy.
- 4.8 The Board has amended the section on provisional licences in the Licensing Policy. The Registrar may now give any applicant a provisional licence to carry out specified sanitary plumbing, gasfitting, or drainlaying while the Board considers their application for a practising licence application under section 45. A separate policy deals with provisional licences for tradespeople from overseas.

## Policy development

- 4.9 In 2010, we recommended that the Board prepare additional policies to guide the exercise of its other powers under the Act. In Part 2, we discuss some aspects of policy development. Eighteen policies have been put in place, which is a considerable amount of work. All of these policies are in a planned programme of review, at intervals no greater than three years. We saw evidence of such reviews being carried out.

<sup>6</sup> The Board carried out gas audits to check the competency of craftsman gasfitters. See Part 6 of our 2010 report for more details.

## Legislative changes

- 4.10 Section 187 of the Act requires MBIE to review the operation of the Act and consider whether amendments to the Act are necessary. MBIE is required to report on this to the Minister for Building and Construction.
- 4.11 The Act came into effect in 2010. MBIE's review of the Act began in late 2013. At the time we were writing this report, MBIE was approving the terms of reference. The Board has met MBIE staff a few times to discuss the review. It has made three formal detailed submissions to MBIE since March 2012, the most recent in November 2013. We have seen the Board's detailed submissions. MBIE will seek submissions from other relevant parties as part of the review.



## Part 5

# The examination system

- 5.1 Under the Act, the Board can prescribe, for each class of registration, the minimum standards for registration, which can include requiring a person to have passed an examination set by the Board.
- 5.2 In 2010, we reported that:
- the systems that the Board uses to prepare examination questions were not as reliable or robust as the Board believed;
  - there were mistakes in some questions that made them unnecessarily difficult to answer, as well as unanswerable questions in some papers; and
  - the current prescriptions for examinations did not match the listed competencies in *Gazette* notices about registration.

### Summary of progress

- 5.3 We are satisfied that the Board has addressed the many problems that we identified in 2010. The risk of producing examination papers containing errors has been reduced. New checks put in place mean that it is more likely that errors will be picked up. Adoption of the recommendations from the September 2013 evaluation (see paragraph 5.9) will give the Board a broader range of measures with which to track improvement.
- 5.4 We made two recommendations on examinations in our 2010 report. Figure 4 summarises the progress against the recommendations, with further detailed findings in paragraphs 5.5 to 5.13.

**Figure 4**  
The Board's progress in addressing recommendations 7 and 8

	We recommended that the Plumbers, Gasfitters, and Drainlayers Board:	Progress by the end of 2013	Relevant paragraphs in this report
7	... in preparing questions for any future examinations, ensure that the questions are appropriate for assessment under the Plumbers, Gasfitters, and Drainlayers Act 2006, are able to be answered, are free of mistakes, and do not contain unrealistic scenarios.	Complete	5.5-5.10
8	... review its processes for preparing and moderating questions, and for setting examination papers.	Complete	

## Examination changes

- 5.5 The Board changed its approach to examination-setting and moderation in time for the November 2010 examinations. Changes included the inclusion of multiple-choice questions and allowing open-book examinations. Moderation meetings now include an NZQA examination expert. Moderators check to:
- see that the questions are based on the training material given to those wanting to sit the examination; and
  - ensure that the questions are unambiguous and technically accurate.
- 5.6 After the examination, any papers where the candidate just missed the 60% pass mark are automatically remarked. Papers are checked for adding errors. A selection of papers from each venue is compared, to increase consistency across training providers and markers.
- 5.7 In February 2011, the Board hired consultants to help improve the examination papers further. The consultants concluded that the Board was making progress, but added that:
- ... there are many opportunities to improve examination questions. The opportunities include editing questions from the literacy and readability perspectives, ensuring that more questions include scenarios to provide context, user testing questions, and providing study skills resources to assist candidates answer multi-choice questions.<sup>7</sup>*
- 5.8 Quality assurance reports show that the Board has continued to focus on these improvement opportunities during 2011 to 2013.
- 5.9 Further expert evaluation was commissioned in 2013, leading to the *Examination Process Review Report* (EPR report) in September 2013, which analysed examination outcomes since June 2013 and found that:
- A total of 437 papers were sat, of which 108 did not meet the 60% pass mark requirement (subject to the appeals process). Seventeen of those 108 papers were being reconsidered. This compared with 17 in 2012 and 25 in 2011.
  - No calls were received from candidates immediately after the examinations. Three complaint calls were received after the results were published.
  - For three questions, alternative answers had to be allowed because of problems with the questions, but there were no unanswerable questions in any of the papers.

<sup>7</sup> Workbase Consulting (February 2011), *Examination question analysis report*.

- 5.10 The EPR report made several recommendations. These included the Board giving consideration to widening checks on papers that failed to meet the pass mark to ensure that no candidates were disadvantaged. However, the EPR report concluded that improved pass rates were a good indication of a better-managed process.
- 5.11 We independently analysed pass rates. Our analysis showed significantly higher pass rates for 2010-2012 than those we had found for 2008 and 2009. However, the percentage of plumbers who succeed at certifying level is lower than gasfitters and drainlayers.

**Figure 5**  
**Percentage of applicants who passed examinations, 2008 to 2012**

	2008 pass rate %	2009 pass rate %	2010 pass rate %	2011 pass rate %	2012 pass rate %
Plumbers	36.0	47.0	79.0	79.5	75.5
Gasfitters	36.0	77.0	75.0	72.0	66.0
Drainlayers	51.0	54.0	75.0	81.5	88.0
Certified plumbers	20.0	46.0	67.0	66.0	69.5
Certified gasfitters	30.0	47.0	71.0	81.0	83.5
Certified drainlayers	-	-	-	100.0	87.5

- 5.12 We saw evidence of the Board considering the reasons for the lower pass rates for certifying plumbers at its November 2013 meeting, although it was not clear how the matter would be taken forward. However, we are satisfied that results are scrutinised by the Board, and that pass rates have remained at levels comparable to those in similar industries.
- 5.13 Discussions continue with NZQA about how to include the Board's examination for the licensed class of registration in National Certificates at level 4. The pace of this review has been slow, but there has been significant change in the way training in trade skills is organised. However, when the new arrangements are put in place, they should help to ensure that teaching, learning, and assessment in the polytechnics and the Board's examinations are more aligned.



## Part 6

# Gas certificates and gas audits

- 6.1 In 2010, we reported some problems with the systems and controls over the issue of gas certificates, and the Board’s gas audit work, in the period between 1992 and 2009. Since 1993, the Board had sold gas certificates to registered and licensed craftsman gasfitters (now termed “certifying”) gasfitters. The certificates were to ensure that there was a record that established accountability for the gas work. The Board checked a small number of installations as part of its programme of auditing gasfitters.
- 6.2 We describe these arrangements in more detail in Part 6 of our 2010 report. In summary, we were critical of the Board’s audits of gasfitters, including the checking of installations, because we saw no clear legal basis for them. We also found evidence that the overall certification system was ineffective.

### Summary of progress

- 6.3 The Board had made some changes by the time we published our 2010 report. It had ended the previous programme of two-yearly audits of gasfitters that we queried. It now has clear legal capacity to impose competency requirements on the trades it regulates, including gasfitters. The Board is consulting with the industry on how it will check those requirements.
- 6.4 In 2010, our work and other events raised concerns about the certification system. Consequently, the Government began a review of the overall system and the relevant regulations later in 2010. The regulations were amended in 2012 and new arrangements came into force during 2013. The changes mean the regulatory landscape has changed.
- 6.5 The Board no longer has any role in issuing, receiving, or storing gas certificates. Instead, gasfitters keep their own copies of certificates and record high-risk gasfitting that they have done on a database operated by Energy Safety. Energy Safety is part of the new Crown entity, Worksafe New Zealand, and now oversees the gas certification system.
- 6.6 In 2010, we made two recommendations about gas certificates and gas audits. Figure 6 summarises the progress against these recommendations, with further detailed findings in paragraphs 6.7-6.16.

**Figure 6**  
**The Board's progress in addressing recommendations 9 and 10**

	<b>We recommended that the Plumbers, Gasfitters, and Drainlayers Board:</b>	<b>Progress by the end of 2013</b>	<b>Relevant paragraphs in this report</b>
9	... work with the Ministry of Economic Development and the Department of Building and Housing to consider what changes may be needed to enable the gas certification system to operate as an effective public safety protection.	Our findings contributed to an industry-wide review of gas certification later in 2010. This led to reform to clarify legal roles and responsibilities around installations and certificates. The Board is operating within the new legislative framework.	6.6-6.16
10	... work closely with the Ministry of Economic Development and the Department of Building and Housing to develop a gas audit process that provides adequate assurance of the safety of self-certified gas installations.		

## Gas certificates for installations

- 6.7 The Board no longer has a role in gas certification. The Gas (Safety and Measurement) Amendment Regulations 2012 (the Gas Regulations) and the Electricity (Safety) Amendment Regulations 2012 came into force on 1 July 2013. These regulations shifted responsibility for the certification system from the Board to Energy Safety. Other changes included:
- extending certification to cover all gas installation and prescribed electrical work;
  - requiring a safety certificate to be issued after connection;
  - providing for a publicly available database (transferred from the Board to Energy Safety) to record information on installation work classified as high risk;
  - maintaining and enhancing the consistency of the gas and electrical certification regimes; and
  - removing fees for gas and electrical certificates of compliance from 1 July 2013.
- 6.8 The Gas Regulations now provide that two certificates may be issued:
- a Certificate of Compliance (CoC) certifies the compliance of work before connection; and
  - a Gas Safety Certificate (GSC) must be issued after commissioning and connecting any installation to the gas supply.
- 6.9 If the work is low risk, only the GSC is required. The GSC and CoC can be combined into one document. Gasfitters can combine the certificate with an invoice. These

measures are to reduce the administration work that tradespeople must do, while still requiring a record of what work was done, by whom, and how it was tested. The CoC and GSC need to be provided to the person who contracted the work, and the certifying gasfitter is required to keep a copy. If the work is high risk, then the gasfitter is required to enter information about the CoC in Energy Safety's Gas High-Risk Database.

### Ensuring that gasfitters are competent

- 6.10 The 1976 Act, and the 2006 Act that replaced it, gave the Board a statutory function to ensure that gasfitters were competent. In our 2010 report, we described how the Board had been carrying out two-yearly audits of gasfitters. The audit of competency included checking one or two installations. We saw no legal basis for the way in which the Board was conducting those audits.
- 6.11 By 2013, the Board was no longer carrying out gasfitter audits. It had temporarily suspended them on 1 April 2010 while it carried out a review. Now, the Board is operating within its role, while still working out the best way to check the competence of tradespeople in consultation with the industry. When we started our follow-up work, the Board was considering random competency reviews for gasfitters, plumbers, and drainlayers. However, the Board has decided not to continue with the random reviews after receiving feedback about the proposal.
- 6.12 The Board has decided to make participation in competency reviews a term and condition of licensing for all of the tradespeople it regulates. At the time of writing this report, the Board had agreed a policy to explain what the content of a competency review might be, and the circumstances by which one might be triggered. Because the Board had deferred a decision on implementing a competency review programme, this policy had not been published on the Board's website.
- 6.13 Auditing gas installations is one of a number of tools available to the Board to test competency, although it only has limited powers to enter buildings to check installations.
- 6.14 It was not within the scope of our follow-up work to review the effectiveness of the new arrangements for gas certification and safety. However, it appears to be simpler, because:
- tradespeople self-certify without needing to buy special certificates;
  - Energy Safety and/or Work Safe have a role in checking high-risk gas installation safety in public places and places of employment; and
  - the Board has functions to ensure that tradespeople are competent.

- 6.15 We also noted that there was some risk of confusion about respective roles. We received comments during our follow-up work that indicated there was an expectation that the Board should be using the high-risk database to carry out some auditing of gas installations. We consider that there is no basis for this expectation, as the Act does not provide for the Board to routinely audit gas installations.
- 6.16 Recommendation 10 from our 2010 report said that the Board should work closely with the Ministry of Economic Development and the Department of Building and Housing to develop a gas audit process that provides adequate assurance of the safety of self-certified gas installations. MBIE is now the administering department for both the Act and the Gas Act 1992. We suggest that the Board continue to participate in industry discussions to ensure that the changes have not introduced unintended gaps in the safety regime.

## Part 7

# Overseas applicants

- 7.1 Under the Act, the Board has the power to prescribe the minimum standards for registration for both certifying and licensed plumbers, gasfitters, and drainlayers. The Board has the discretion to recognise any overseas qualification, certificate, registration, or licence as satisfying a minimum standard for registration. We describe this in more detail in paragraph 7.30 of our 2010 report.
- 7.2 In 2010, we reported that:
- the Board was not using its discretion to recognise overseas qualifications as satisfying a particular minimum standard for registration;
  - the Board had acted unlawfully in refusing to consider registering overseas applicants at the craftsman (now certifying) level; and
  - it was unclear whether the Board had legal powers to issue provisional licences to overseas applicants in the way that they were proposing.

### Summary of progress

- 7.3 Our original inquiry was driven partly by the number of complaints by migrants that they were being unfairly treated by the Board. The Board has apologised to many of these people under the historical complaints process, although some remain dissatisfied with the remedies offered.
- 7.4 After our limited follow-up work on this matter, we are satisfied that the majority of the problems we reported on in 2010 have been resolved.
- 7.5 In 2010, we made two recommendations about overseas applicants. Figure 7 summarises the progress against these recommendations, with further detailed findings in paragraphs 7.6-7.19.

**Figure 7**  
**The Board's progress in addressing recommendations 11 and 12**

	<b>We recommended that the Plumbers, Gasfitters, and Drainlayers Board:</b>	<b>Progress by the end of 2013</b>	<b>Relevant paragraphs in this report</b>
11	... review its policies for registering well-qualified and experienced plumbers and gasfitters migrating to New Zealand to ensure that its current policies give appropriate effect to its statutory discretion and to ensure that New Zealand makes the best use of the skills of such immigrants.	Complete	7.6-7.19
12	... clarify whether it can issue provisional licences to overseas plumbers, gasfitters, and drainlayers before they apply for registration.	Complete	7.13

## Policies and licences

- 7.6 Our follow-up work on overseas applicants was limited because we did not review the files of tradespeople. We looked at decisions that the Board had made over 18 months granting or refusing registration and licences to overseas applicants. We reviewed complaints sent to the Board from overseas applicants, and regularly scanned social media targeted at migrants, particularly internet bulletin boards (forums). We did not pick up any current or recent problems about poor treatment of overseas applicants with respect to licensing and registration.
- 7.7 We were concerned when we started our follow-up work that the Board's website lacked information for overseas applicants. The information on the website applied only to trans-Tasman arrangements. However, a detailed guide for other tradespeople with overseas qualifications was posted on the website in February 2014.
- 7.8 The Board's view is that the standards applying to overseas-trained applicants should be neither higher nor lower than those that apply to applicants who were trained in New Zealand.
- 7.9 The Board set the minimum standards of registration for those applicants who apply on the basis of an overseas qualification, and published these as amendments to the registration *Gazette* notices in May 2013. Applications are permitted at both the licensed and certifying levels of registration.
- 7.10 The Board no longer operates the Immigrant Qualification Assessment System (IQAS) that it used in 2010. Qualified overseas tradesperson now apply to NZQA for an International Qualifications Assessment (IQA).
- 7.11 The IQA assesses whether the applicant's qualification is equivalent to, or greater than, the same qualification at level 4 on the New Zealand qualifications framework. Many migrants from other trades and professions use this process when they are seeking employment in New Zealand. Immigration New Zealand requires an IQA for some types of visa.
- 7.12 IQAs can also be sought by people with overseas qualifications who may have been in New Zealand for some time, for employment purposes. Again, this is similar to other skilled professions. We consider that putting the evaluation of qualifications in the hands of an expert body is a step forward from the process we saw in 2009.
- 7.13 With an IQA, and some other documentation, an overseas tradesperson is able to apply for registration, which is now in two stages. The Board can issue a provisional licence while it is considering that application. This is different

from what we found in 2010, whereby an overseas person could not apply for registration until they had passed the Board's exam. The provisional licence allows overseas applicants to work under supervision while they satisfy the minimum terms for registration.

- 7.14 To complete the registration process at the licensed level, the tradesperson still needs to pass the Board's exam. Those seeking direct entry at certifying status need to do an advanced proficiency assessment (APA). Applicants need to be in New Zealand to do the APA. Fees for the APA process are:
- overseas advanced proficiency application \$690;
  - overseas advanced proficiency assessment \$2,300 (maximum); and
  - overseas advanced proficiency materials \$1,500 (maximum).
- 7.15 We understand that the Board's expectation is that a person who wants to get authorisation to do sanitary plumbing, gasfitting, or drainlaying applies in keeping with standard registration and licensing requirements. However, section 52 of the Act offers an alternative to the APA where the Board can exercise judgement about an individual applicant's case.
- 7.16 Section 52 allows the Board to grant exemptions from complying with the minimum standards of registration that tradespeople must meet to be registered, receive a practising licence for the first time, or renew their practising licence. The Board can add terms and conditions as it sees fit to a section 52 exemption. It can also refuse to grant the exemption.
- 7.17 The guide for overseas applicants has no reference to section 52 exemptions. In the interests of transparency, we think that the Board should include more information about its policy on these exemptions in its guidance for overseas applicants. A section 52 application costs \$300.
- 7.18 We think that it is important that the option of applying for a section 52 exemption is clarified in the guide to avoid misunderstanding or the perception that standards are different for overseas applicants, and because the costs of an APA are high (see paragraph 7.14).
- 7.19 We note that the Board's November 2013 review of the Provisional Licences Policy indicates an intention to interview overseas applicants as part of the decision-making process. This seems reasonable. We suggest that these interviews should be structured, and applicants should know – before the interview – what is being assessed. It would be good practice to electronically record these conversations to control quality, if this can be achieved at an acceptable cost. This should ensure that the Board can show fair treatment of applicants.



## Part 8

# Fees and charges

- 8.1 Section 142 of the Act allows the Board to charge fees for registration applications, licences, applications for exemptions, examination fees, and any other matter that the Board must do to carry out its functions. A separate provision under section 143 allows it to charge a disciplinary and prosecution levy to fund:
- investigations into allegations or complaints about registered tradespeople;
  - disciplinary proceedings against registered tradespeople; and
  - investigations into, and prosecution of people for any breach of any part of the Act or regulation relating to unauthorised plumbing, gasfitting, and drainlaying work.
- 8.2 Our 2010 inquiry identified several problems with how the Board accounted for its expenditure and the basis for calculating the fees that it charged tradespeople.

### Summary of progress

- 8.3 For our follow-up work, we mainly focused on the fees and charges review of 2012. In summary, we found that the Board had given serious attention to the setting of fees and charges, and had taken account of good practice guidance. However, we encourage the Board to systematically consider the combined effect of its fees and charges on tradespeople. Fees and charges are high compared to other boards that regulate tradespeople.
- 8.4 In 2010, we made one recommendation about fees and charges. Figure 8 summarises the progress against this recommendation, with further detailed findings in paragraphs 8.5-8.20.

**Figure 8**  
**The Board's progress in addressing Recommendation 13**

	<b>We recommended that the Plumbers, Gasfitters, and Drainlayers Board:</b>	<b>Progress by the end of 2013</b>	<b>Relevant paragraphs in this report</b>
13	... maintain and embed a practice of reviewing all of its fees and charges against the good practice guide, <i>Charging fees for public sector goods and services</i> , to ensure that it is budgeting and setting fees in keeping with its legal authority and good practice expectations.	Complete	8.5-8.20

## Reviewing fees and charges

- 8.5 The Board hired a globally recognised consultancy to analyse its expenditure and income before the review of fees and charges in 2012. In our view, the Board consulted appropriately about its proposals.
- 8.6 The fee review considered our good practice guide, *Charging fees for public sector goods and services*. In that guide, we say:
- The entity should have a system in place to collate the cost information. The type of systems developed should take account of the context and should be in proportion to the level of revenue and costs that the entity needs to track. In identifying the resources, and hence the cost, involved in providing the forecast volume of goods or services, the entity has to use the best information available to it and make reasonable assumptions about prospective information.*
- 8.7 The Plumbers, Gasfitters, and Drainlayers Federation (the Federation) is unhappy that staff and Board member time is not measured more precisely. However, we think that diminishing improvements in accuracy can be gained, relative to the costs of getting improvement. The bigger problems we identified in 2010 were that the Board:
- was charging more for some activities than it cost to do them;
  - was not keeping the income raised from the disciplinary levy and offences fee separate from the Board's other income; and
  - had increased fees and charges significantly since 2007.
- 8.8 For example, in 2010, we noted that the Board was setting some fees and charges that seemed to be significantly more than the costs of providing those services. The Board went on to register a surplus in the next set of accounts. The Board has addressed this matter by setting its fees to recover costs only.
- 8.9 The 2012 fee model builds in use of the surplus income that the Board collected in previous years. The Board has moved to a three-year projection and this should avoid large fluctuations in fees from one year to the next, while reducing the level of reserve funds that it holds.
- 8.10 The Board has now introduced memorandum accounts for the money it collects from the disciplinary levy and the offences fee. This also improves transparency, by showing that income from the disciplinary levy and the offences fee is spent only on those activities.
- 8.11 Changes to legislation mean that the Board no longer receives income from gas certification. In 2010, we had concerns that the Board used income from this

source to pay for other activities that it carried out, but this is no longer a risk. However, loss of the income has increased pressure on the Board's finances.

8.12 In our 2010 report, we discussed how fees had increased since 2007. In the overview to that report, the Auditor-General said:

*In any regulatory context, it is too hard to achieve high levels of compliance through force or coercion – effective systems rely on people choosing to participate and follow the rules.*

8.13 Although there is no legal requirement to take costs into account when setting fees, in our view, the Board should do so. We have noted the progress the Board has made in the mechanics of setting fees and charges. However, after looking at the agendas and minutes of Board meetings over an 18-month period, we concluded that the Board did not routinely discuss the effect of its policies, fees, and charges on tradespeople.

8.14 The Auditor-General receives a number of complaints each year from plumbers, gasfitters, and drainlayers. Although we cannot investigate individual complaints, we do use information that complainants have given us to look at the bigger picture. Many of the complaints we receive are directly or indirectly about costs.

8.15 We looked at the Board's registration and licensing costs and compared them to three other occupational registration and licensing boards. These boards cover electrical workers, people working in the building industry, and nurses. The full details are shown in the Appendix.

8.16 Our analysis shows that costs are higher for plumbers, gasfitters, and drainlayers compared to joiners, electricians, and nurses. The main reasons for this are:

- The Board registers fewer people, and issues significantly fewer licences than the other Boards. This means their fixed costs, like their registration database, are spread over fewer people.
- The Board's disciplinary levy is high. This is partly because the Act requires the Board to appoint investigators for every complaint it receives.<sup>8</sup> If the investigator thinks that the complaint should be considered by the Board, the Act requires that five Board members must hear it.
- The Board is unique in having to charge tradespeople, by way of the offences fee, for the costs of prosecuting people doing unlawful plumbing, gasfitting, or drainlaying.
- The Board receives no funding from the Government,<sup>9</sup> either from general taxation or levies. This is different to the Electrical Workers Registration Board and the Building Practitioners Board.

<sup>8</sup> Except if they are deemed frivolous or vexatious.

<sup>9</sup> The Board did receive a one-off contribution of \$55,000 to help it implement the Act.

- 8.17 Now that the Board has a better understanding of its costs and expenses, we think it could be more innovative in how it approaches its regulatory role. For example, linking continuous professional development, competence review and licensing periods could potentially bring savings for the Board and for tradespeople. Our analysis showed that the Electrical Workers Registration Board had moved to a two-year licence period, and the Board has discretion to do something similar.
- 8.18 However, it is questionable whether such changes will bring big enough savings. In the December 2013 issue of *Info Brief*, the Board Chairman said:
- While the Board has reduced its overall operating costs, it suffers from a lack of economies of scale. I have advocated for the amalgamation of the three trade occupational licensing boards. In my view, that is the best way to reduce the costs.*
- 8.19 This demonstrates that the Board faces challenges to properly regulate and comply with the Act at a cost that is reasonable for the sector.
- 8.20 MBIE is working on a wider review of occupational registration and licensing. Additionally, we saw that the Board's business plan contained an action to progress discussions on joining with other boards, but in two years nothing had happened.

# Appendix

## Comparison of registration and licensing costs

	Licences issued 2012/13 (5)	Average full-time salary	Registration fee (a)	Licence fee (b)	Disciplinary levy (c)	Offences fee (d)	Total to practise for first year (a+b+c+d)	Annual cost to relicense [b+c+d]	Licence duration
	\$	\$	\$	\$	\$	\$	\$	\$	Years
PGDB (1)	15,543	51,000 (6)	409	101	170	86	766	357	1
BPB (2)	27,890	46,000 (7)	0	383	0	0	383	199	1
EWRB (3)	26,409	54,000 (7)	232	190	0	0	422	190	2
NCNZ (4)	50,060	47,000- 64,000 (8)	75	90	20	0	185	110	1

PGDB Plumbers, Gasfitters, and Drainlayers Board

BPB Building Practitioners Board

EWRB Electrical Workers Registration Board

NCNZ Nursing Council of New Zealand

Notes: All registration costs relate to people with New Zealand qualifications. Higher fees apply for overseas-trained people. Salaries are rounded to the nearest \$1,000. Fees and levies are rounded to the nearest \$.

1. Based on a person applying for registration and licensing as a plumber.
2. Based on a person applying for registration and licensing as a carpenter using the qualified practitioner route.
3. Based on a person applying for registration and licensing as an electrician.
4. Based on a person applying for registration and licensing as a registered or enrolled nurse.
5. One person can hold more than one licence; the number of registered people will be less.
6. Average income from 2013 Census 2013.
7. Average income from Statistics New Zealand's June 2013 New Zealand Income Survey. Estimated from average hourly earnings.
8. District Health Boards/New Zealand Nurses Organisation, Multi-Employer Collective Agreement 1 March 2012 – 28 February 2015.



# Publications by the Auditor-General

Other publications issued by the Auditor-General recently have been:

- Reflections from our audits: *Our future needs – is the public sector ready?*
- Health sector: Results of the 2012/13 audits
- Schools: Results of the 2012 audits
- New Zealand Customs Service: Managing Trade Assurance capability risks
- Draft annual plan 2014/15
- Central government: Results of the 2012/13 audits (Volume 2)
- Additional work on Solid Energy New Zealand Limited
- Inquiry into property investments by Delta Utility Services Limited at Luggate and Jacks Point
- The Auditor-General's Auditing Standards 2014
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- Summary: Inquiry into the Mangawhai community wastewater scheme
- Inquiry into the Mangawhai community wastewater scheme

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Office of the Auditor-General  
PO Box 3928, Wellington 6140

Telephone: (04) 917 1500  
Facsimile: (04) 917 1549

Email: [reports@oag.govt.nz](mailto:reports@oag.govt.nz)  
Website: [www.oag.govt.nz](http://www.oag.govt.nz)