



Employer licence policy

*Version 3 approved by the Board on 15 September 2015
to come into effect on 16 September 2015*

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GENERAL PROVISIONS

1. Purpose

- 1.1 This is the Board's policy on administering employer licences.

2. Legislation and relevant policies

- 2.1 The following legislation is relevant to this policy:
- a the Plumbers, Gasfitters, and Drainlayers Act 2006
 - b the Plumbers, Gasfitters, and Drainlayers Regulations 2010
 - c the Plumbers, Gasfitters and Drainlayers Board (Gasfitting Registration and Licensing) Notice 2010 and its amendments
 - d the Plumbers, Gasfitters, and Drainlayers (Fees and Disciplinary Levy) Notice 2013
 - e the Gas Act 1992
 - f the Gas (Safety and Measurement) Regulations 2010.
- 2.2 This policy must be read in conjunction with the following Board policies:
- a decision-making
 - b supervision
 - c waiver or refund of fee or disciplinary levy
 - d register of plumbers, gasfitters, and drainlayers.

3. Definitions

- 3.1 In this policy, unless the context otherwise requires:
- a **Act** means the Plumbers, Gasfitters, and Drainlayers Act 2006
 - b **applicant** means a person applying for an employer licence or the renewal of an employer licence
 - c **application** means an application for an employer licence or the renewal of an employer licence
 - d **approved person** has the meaning set out in section 62(6) of the Act, which is: "(a) a person designated by regulations as an approved person: (b) a member of a class of persons designated by regulations as a class of approved persons"
 - e **approved person applicant** means a person applying to be an approved person
 - f **approved person assessment application** means an assessment of an employer licence application that is submitted to the Board with a certificate issued by an approved person
 - g **authorised person** means a person authorised by the Board to undertake its powers of inspection under section 69(1)(a) of the Act
 - h **Board** means the Plumbers, Gasfitters, and Drainlayers Board
 - i **Board assessment application** means an assessment by the Board itself of an employer licence application
 - j **fees notice** means the Plumbers, Gasfitters, and Drainlayers (Fees and Disciplinary Levy) Notice 2013
 - k **Gas Regulations** means the Gas (Safety and Measurement) Regulations 2010

- l **Gazette notice** means the Plumbers, Gasfitters and Drainlayers (Gasfitting Registration and Licensing) Notice 2010, and its amendments
- m **identified gasfitting** means the gasfitting that will be undertaken under the employer licence
- n **other terms and conditions** means any other terms and conditions that the Board thinks fit as provided by section 62(5) of the Act
- o **Registrar** means the Registrar of the Plumbers, Gasfitters, and Drainlayers Board appointed under section 140 of the Act
- p **Regulations** means the Plumbers, Gasfitters, and Drainlayers Regulations 2010
- q **section 62(1) system of operation** means a system of operation that complies with section 62(1)(a) and (b) of the Act
- r **section 69(1) condition** means the conditions relevant to all employer licences regarding powers of inspection, as set out in section 69(1) of the Act.

CORE POLICY PROVISIONS

4. Guiding principles

- 4.1 The Board issues an employer licence only where it is satisfied that the applicant will at all times maintain a section 62(1) system of operation as described in the Act, specifically one that:
 - a complies with the requirements set out in the Regulations, and
 - b is sufficient to ensure that employees of that applicant who do or assist in doing gasfitting:
 - i. are competent to carry out the work they are employed for; and
 - ii. receive supervision and training that is necessary to ensure the work is carried out safely and competently, and complies with requirements of the Gas Act 1992 and any regulations made under section 54 of the Gas Act 1992.
- 4.2 There are two alternative ways that an applicant can seek to satisfy the Board that it will maintain a section 62(1) system of operation:
 - a The first way is by submitting an application that the Board assesses. See paragraph 8.1 for more information on this method of application.
 - b The second way is by submitting an application that includes certification of the system of operation by an approved person. See paragraphs 8.2 to 8.6 for more information on this method of application.
- 4.3 A person is not entitled to be issued with an employer licence if the person is precluded from holding an employer licence because of any action taken by the Board under section 66 of the Act.
- 4.4 An employer licence permits the licence holder to authorise any employee to do, or assist in doing, any gasfitting, and such authority is sufficient for the authorised employee to carry out, or assist in carrying out, such gasfitting, subject to any relevant regulations and the terms and conditions of the employer licence.

- 4.5 If a person does not hold a current employer licence, any employee working for them carrying out or assisting in carrying out gasfitting work must be otherwise authorised under the Act.
- 4.6 An employer licence does not provide authorisation for an employer licence holder to authorise someone other than an employee, such as a contractor, to carry out or assist in carrying out identified gasfitting.

5. Applying for an employer licence or the renewal of an employer licence

- 5.1 All applications, which must be in the form required by the Board, must include sufficient information to enable the Board to fully assess the merits of the application in accordance with the provisions of the Act and of the Regulations, and the guidance set out in this policy.
- 5.2 Unless it has been cancelled, an employer licence may be renewed from time to time.
- 5.3 An application for an employer licence or the renewal of an employer licence must be:
- a sent or delivered to the Registrar
 - b in the form required by the Board
 - c completed in full and accompanied by the required documentation
 - d accompanied by the prescribed fee.
- 5.4 Unless the applicant has applied for a waiver, the Board accepts an application for processing only once it has received the prescribed fees.
- 5.5 The Board checks all application information for accuracy, authenticity and completeness.
- 5.6 The Board notifies an applicant of any details missing from an application that would prevent the application from being processed, and gives them a reasonable opportunity to provide the information before reaching a decision on the application.
- 5.7 The Registrar refers all employer licence applications to the Board for consideration.
- 5.8 The Board issues or renews an employer licence only if it is satisfied that the applicant will at all times maintain a section 62(1) system of operation. When considering this, the Board may take into account a range of matters, including those set out at paragraphs 8.1 and 8.2 below, and it may seek the views of an approved person.

6. Fees

- 6.1 The application fee is set out in the fees notice.

- 6.2 The Registrar or any other officer or employee of the Board will usually decline to accept, process or consider an application for an employer licence unless and until the employer licence application fee has been paid.
- 6.3 An applicant may apply in writing to the Registrar for a waiver of a fee or the disciplinary levy.¹
- 6.4 Applications that accompany an application for a waiver of the fee or disciplinary levy will be held by the Board until the waiver application has been determined.
- 6.5 Where the waiver application is granted in full, the application will be accepted for processing in the normal way.
- 6.6 Where the waiver application is declined in full or declined in part, the application will not be accepted for processing until the applicant has paid the fee or levy, or any required part of the fee or levy.
- 6.7 The fee may be paid:
- a in cash
 - b by cheque
 - c by credit card
 - d by electronic transfer directly to the Board's bank account.

7. Duration of licence

- 7.1 Generally, an employer licence will be issued for the duration of one licensing period, which runs from 1 April to 31 March the following year. On application, the Board will consider issuing an employer licence for more than one licensing period.
- 7.2 All employer licences expire on 31 March, unless they are:
- a expressly issued to run for a longer period of time, or
 - b cancelled or suspended earlier.
- 7.3 Every employer licence holder must renew their employer licence to continue to be able to authorise any employee to do, or assist in doing, any gasfitting before the date of expiry.
- 7.4 Where a person applies for a renewal of their employer licence before the expiry date, their current licence continues in force until their renewal application has been determined, and any renewal takes effect from the date on which the licence would have expired.
- 7.5 On application, the Board will consider issuing an employer licence for more than one licensing period, but no longer than five years. When considering an application for an employer licence for more than one licensing period, the Board takes into account a range of matters, including:
- a the matters specified at paragraph 8.1 below

¹ See Fee or Levy waiver or refund policy.

- b any submissions made by the applicant
- c any comments or recommendations made by the Registrar or an approved person
- d the availability of any terms or conditions to mitigate any residual concerns.

8. Considerations when assessing an application for an employer licence and renewal of an employer licence

Board assessment application

- 8.1 When considering whether it is satisfied that the applicant will at all times maintain a section 62(1) system of operation, the Board takes into account a range of matters about which the applicant must provide information, including:
- a the identified gasfitting
 - b the skills and training required in order to carry out each kind of identified gasfitting, as well as evidence that the relevant employees have the required skills and training
 - c the procedures in place for each of the following:
 - i. carrying out, supervising, and monitoring the identified gasfitting
 - ii. investigating injuries caused to persons, and damage caused to property, as a result of carrying out any identified gasfitting
 - iii. taking action to prevent, and in response to, injuries to persons or damage to property that results from carrying out the identified gasfitting
 - d the manual the applicant maintains that sets out:
 - i. the matters listed in paragraph 8.1(a) to (c).
 - ii. the names of every employee of the employer licence holder who is to carry out identified gasfitting, along with a description of the identified gasfitting that each employee is trained and has the skills to do
 - iii. the location and address of each place of work from which the holder operates, and that is intended to be covered by the employer licence, and
 - iv. a contact person for the employer licence, who is an employee of the licence holder, identified by name or position.

Approved person assessment application

- 8.2 The Board treats an applicant as maintaining a section 62(1) system of operation if it receives an application for an employer licence where an approved person has issued a certificate in the prescribed form, certifying that the applicant's system of operation complies with the provisions set out in section 62(1)(a) and (b) of the Act.
- 8.3 The Board expects that an approved person issues such a certificate only where the approved person:
- a is satisfied that the system complies with the provisions set out in section 62(1)(a) and (b) of the Act, and
 - b has had regard to the provisions of the Act and the Regulations, and the guidance set out in this policy when making that decision.
- 8.4 A certificate in the prescribed manner must:

- a clearly state that the applicant complies with the provisions set out in section 62(1)(a) and (b); and
- b specify the date the certificate takes effect and expires.

8.5 A certificate issued by an approved person ceases to have effect if:

- a the approved person writes to the certificate holder revoking the certificate; or
- b the term of the certificate expires.

8.6 Please see paragraph 13 for information on becoming an approved person.

9. Terms and conditions of an employer licence

Section 69(1) conditions

9.1 Every employer licence holder is subject to the following powers of inspection conditions, as set out in section 69(1) of the Act:

- a Any person authorised by the Board for the purpose may, for an authorised purpose, at any reasonable time, inspect any premises (not being a dwelling house) occupied by the employer licence holder, and for that purpose may enter and re-enter any place, subject to the following conditions:
 - i. the authorised person must give reasonable notice of the intention to enter any premises to the employer licence holder, unless the giving of the notice would defeat the purpose of the entry
 - ii. the authorised person, when entering any premises, and when requested at any time, must produce evidence of their authority to enter the premises, and evidence of their identity
 - iii. no person is authorised to enter a restricted area within a defence area unless the person entering has a security clearance approved by the person in charge of the area.
- b The Board may, for an authorised purpose:
 - i. require the employer licence holder to produce for inspection, within any reasonable period that the Board may specify, any document or class of document in the possession or under the control of the employer licence holder, and may take copies of, or extracts from, any of those documents
 - ii. require the employer licence holder to provide, within any reasonable period that the Board may specify, any information or class of information that the Board may require.

9.2 For the purposes of section 69 of the Act, "authorised purposes" are set out in section 69(5) of the Act as being:

- a the purpose of ensuring compliance with the terms and conditions of the employer licence
- b the purpose of ensuring that the gasfitting work done by the employees of the employer licence holder is at all times carried out safely and competently, and complies with the requirements of the Gas Act 1992 and any regulations made under section 54 of the Gas Act 1992.

Other terms and conditions

- 9.3 Under section 62(5) of the Act, the Board may impose any other terms or conditions in addition to the standard conditions set out above at paragraph 9.1 above as it thinks fit, including but not limited to:
- a a restriction on the type of gasfitting that may be done under the licence
 - b a condition relating to competent and safe work practices
 - c a geographic area within which identified gasfitting may be undertaken under the employer licence
 - d a requirement for periodic reassessments of the employer licence holder's system of operation
 - e a requirement for periodic notification of relevant skills and training completed by employees working under the employer licence
 - f a requirement to notify the Board of changes to key personnel of the employer licence holder
 - g a requirement to notify the Board of any safety incidents that occur.

10. Making a decision on an application*Approving an application*

- 10.1 Where the Board is satisfied that an applicant is entitled to an employer licence or renewal of their employer licence, and the applicant has paid the required fee, it does the following:
- a issues an employer licence to the applicant
 - b enters the applicant's employer licence details into the register and orders a licence
 - c notifies the applicant in writing of the Board's decision, and
 - d usually sends the applicant's licence to them within 10 working days.

Declining an application

- 10.2 Where the Board is considering declining an application for an employer licence or renewal of an employer licence, it does the following before reaching a final decision:
- a notifies the applicant that it is considering declining their application
 - b tells the applicant the reasons why it is considering declining their application
 - c gives the applicant at least 10 working days to provide a written submission to the Board about why their application should be granted.
- 10.3 The Board takes into account any submission it receives from an applicant.
- 10.4 After considering a submission from an applicant, the Board may grant or decline the application.
- 10.5 Where the Board declines an application, it notifies the applicant of:
- a its final decision
 - b the reasons for its decision
 - c the applicant's right of appeal to the District Court against the decision.

11. Exercise of the Board's powers of inspection

11.1 When the Board decides to exercise its powers of inspection under section 69(1)(a) of the Act, the Board must be guided as set out below.

Inspect any premises

- 11.2 Where the Board authorises a person to enter and re-enter any premises in accordance with section 69(1)(a) of the Act, the Board:
- a issues written instructions to the authorised person authorising them to carry out the inspection; and
 - b notifies the employer licence holder of the Board's intention pursuant to section 69(1)(a) of the Act, unless the giving of notice would defeat the purpose of entry.
- 11.3 On entering any premises for the purpose of inspection, and any time subsequently requested, the authorised person must show the occupant:
- a evidence of their authority to enter the premises; and
 - b evidence of their identity.

12. Action the Board can take under sections 66 and 124 of the Act

- 12.1 The Board has two options available for taking action against an employer licence holder:
- a Under section 66 of the Act, the Board may consider ordering that an employer licence be cancelled, suspended, restricted, fined or censured in relation to an employer licence holder if satisfied that the employer licence holder has carried out any of the conduct at paragraph 12.2 below.
 - b Under section 124 of the Act, the Board may instigate a prosecution in the District Court against the employer licence holder if it is satisfied that the employer licence holder has failed to comply with any condition of their employer licence. Relevant conditions are the Board-imposed conditions provided for at section 62(5) (see paragraph 9.3) and the statutory condition set out at section 69 (see paragraphs 9.1 and 9.2).

Action under section 66 of the Act

- 12.2 The Board may consider taking any of the actions referred to in paragraph 12.3, whether or not the person is still an employer licence holder, if it is satisfied that the employer licence holder:
- a obtained the licence by making a false or misleading representation or declaration
 - b was not entitled to be issued with an employer licence
 - c no longer meets all the requirements for the issue of an employer licence
 - d has failed to comply with any term or condition of the employer licence imposed by the Board. This refers to terms and conditions imposed by the Board under section 62(5) of the Act, as at paragraph 9.3, not the statutory condition set out in section 69 of the Act (see paragraphs 9.1 and 9.2)
 - e has failed to ensure that the gasfitting done by employees of that person is at all times carried out safely and competently, and complies with the requirements of the Gas Act 1992 and its regulations.

- 12.3 The actions the Board may take in relation to matters set out in paragraph 12.2 are to:
- a order cancellation of the employer licence and that the employer licence holder may not apply to be issued with an employer licence before the expiry of a certain period
 - b order suspension of the employer licence either for any period the Board thinks fit, or until the employer licence holder does anything the Board may specify
 - c order restrictions on the employer licence for any period it thinks fit, by limiting the gasfitting the employer licence holder may authorise an employee to do or assist in doing as specified by the Board, and in imposing such a limitation the Board may also impose limitations on the circumstances in which the employee may do or assist in doing that restricted work
 - d order the employer licence holder pay a fine not exceeding \$50,000, except for an act or omission that constitutes an offence that the person has been convicted of by a court, or an infringement offence that the person has been issued with an infringement notice for and paid an infringement fee
 - e order the employer licence holder be censured
 - f make no order.
- 12.4 The Board may only take one of the actions set out in paragraph 12.3, except that it may impose a fine in addition to ordering suspension, restriction or censure.
- 12.5 When the Board is considering taking any of these actions in relation to a matter raised by a complaint or by its own inquiries, the Board:
- a writes to the employer licence holder with information about the reasons it is considering taking any of those actions
 - b gives the employer licence holder a reasonable opportunity to make a written submission, and to meet with the Board to discuss the matter.
- 12.6 Where an employer licence is suspended, the following applies:
- a the employer licence holder does not hold the necessary authorisation to authorise any employee to do or assist in doing any gasfitting for the period of the suspension
 - b where the suspension is completed prior to the expiry of the licence, the licence is revived unless there is some other ground to suspend or cancel the licence, or
 - c where the suspension is completed after the expiry of the licence, the employer licence holder may then apply for another employer licence in the normal way.
- 12.7 The Board may impose a fine in addition to making orders of suspension, restriction, or censure. The Board must not impose a fine under section 66(2)(d) of the Act where:
- a it has made an order for cancellation under section 66(2)(a) of the Act for the act or omission. In this case, and if the matter relates to a failure to comply with a condition of licence, the Board may consider taking an offence prosecution under section 124 of the Act as discussed at paragraphs 12.10 and 12.11.

- b the act or omission constitutes an offence for which the employer licence holder has been convicted in the District Court
- c the act or omission constitutes an infringement offence for which the employer licence holder has been issued and paid an infringement fee.

12.8 Once the Board has made a decision on the matter, the Registrar gives a copy of its decision to the affected person and any order imposed by the Board has effect from the day of making the order. However the expiry, cancellation or suspension of a person's licence does not affect the person's liability for any unlawful action or inaction that occurred prior to the expiry, cancellation or suspension.

12.9 Any fine imposed is recoverable in any court of competent jurisdiction as a debt owed to the Board.

Offence prosecution under section 124 of the Act

12.10 Section 124 of the Act provides that every employer licence holder commits an offence who fails to comply with any condition of their employer licence, and is liable to a fine:

- a not exceeding \$50,000 in the case of an individual; or
- b not exceeding \$250,000 in the case of a body corporate.

12.11 The Board may consider taking action under section 124 of the Act in the following circumstances:

- a the employer licence holder has breached a section 69(1) condition of their employer licence
- b the Board has made an order for cancellation under section 66 of the Act and the seriousness of the act or omission by the affected person is such that the Board considers that it warrants further action in the District Court
- c the Board considers that a fine exceeding \$50,000 against a body corporate is appropriate.

13. Approved persons

Applying to be an approved person

13.1 To be an "approved person", an approved person applicant must:

- a hold an audit qualification issued:
 - i. by the Joint Accreditation System of Australia and New Zealand, or
 - ii. a body accredited by a signatory to the International Accreditation Form multilateral recognition arrangement, or
 - iii. a body approved by or under an international agreement between New Zealand and another country that is not a member of the International Accreditation Forum multilateral recognition arrangement; and
- b satisfy the Board that they are capable of certifying whether or not a system of operation complies with section 62(1)(a) and (b).

13.2 In seeking to satisfy the Board that they are capable of certifying whether or not a system of operation complies with section 62(1)(a) and (b), the approved person applicant must send an application to the Registrar:

- a in the form required by the Board; and
- b that is completed in full and accompanied by any required documentation.

- 13.3 In considering an application, the Board takes into account a range of matters, including:
- a whether the approved person applicant holds a required audit qualification
 - b the approved person applicant's qualifications and experience relating to gasfitting and auditing gasfitting operations
 - c the approved person applicant's knowledge of, and experience with:
 - i. carrying out gasfitting
 - ii. the skills and training required to carry out gasfitting
 - iii. relevant legislation and regulations
 - iv. supervising and monitoring gasfitting
 - v. investigating injuries caused to persons, and damage caused to property, as a result of gasfitting
 - vi. procedures for taking action to prevent, and in response to, injuries to persons or damage to property resulting from gasfitting
 - vii. the development, implementation, and maintenance of gasfitting procedural manuals and records.
- 13.4 The Board notifies an approved person applicant of any details missing from their application that would prevent their application from being processed and gives them a reasonable opportunity to provide the information before reaching a final decision on an application.
- 13.5 The Board maintains a list of names of approved persons, and may remove persons from the list who no longer meet the requirements. If the Board decides to remove a person from the list of approved persons, it sends the person written notification of its decision.

14. Duties to notify Board of change of details

- 14.1 All holders of an employer licence have a duty to notify the Board as follows:
- a If the employer licence holder changes their business address, as recorded in the public register, the person must notify the Board within 3 months of the change. Any person who does not do so commits an offence under section 76 of the Act and may be prosecuted in the District Court, and, if found guilty, liable to a fine of up to \$500.
 - b If the employer licence holder changes their name, they must notify the Registrar within one month of the change. Any employer licence holder who does not do so commits an offence under section 77 of the Act and may be prosecuted in the District Court, and, if found guilty, liable to a fine of up to \$500.
- 14.2 On receipt of notification by the employer licence holder of any changes above, the Registrar amends the register accordingly.²

15. Lost licence

- 15.1 If a person loses their employer licence, they must complete a Declaration of Lost Licence form³ and provide it to the Board.

² See Policy on the Register of plumbers, gasfitters, and drainlayers.

- 15.2 When the Board receives a lost licence declaration, it:
- a records on the register that the person's licence has been lost
 - b orders a new licence, and
 - c advises the person of the actions taken.

ADMINISTRATIVE PROVISIONS

16. Owner

- 16.1 The owner of this policy is the Registrar. Please refer any suggested amendments or errors to the policy owner.

17. Responsibilities

- 17.1 The Board is responsible and accountable for developing, approving, monitoring, and reviewing the policy.

17.2 The Registrar is responsible for administering the policy.

17.3 The Board's secretariat is responsible for complying with the policy and procedures.

18. Monitoring

- 18.1 This policy is monitored on a regular basis and as often as is required to ensure that it is effectively implemented, communicated, and enforced.

19. Review

- 19.1 This policy will be reviewed for the first time one year after it comes into force, or beforehand to reflect any changes in legislation.
- 19.2 Subsequent reviews will be conducted at least every three years and as often as is required to reflect changing legislation and expectations.

³ www.pgdb.co.nz/~downloads/forms/Lost%20Licence%20Declaration%20Form%20April%202010.pdf