



28 March 2013

NZ Parliament
Private Bag 18041
Wellington 6160
New Zealand

Dear Fellow New Zealander

Plumbers Gasfitters and Drainlayers Amendment Bill 2013

Very soon you will be asked to vote on the Plumbers Gasfitters and Drainlayers Amendment Bill - a Bill to validate fees taken illegally from the plumbers, gasfitters and drainlayers of New Zealand, all hard working, and productive New Zealand citizens. Not only will you be asked to validate the fees but also to give the Plumbers Gasfitters and Drainlayers Board MORE power to levy the industry as it sees fit. We implore you to vote AGAINST the Amendment Bill which is nothing more than a cover up for poor leadership by the Minister of Building and Construction, coupled with the incompetence of a Board which he appointed.

This Bill is about more than the payment of money, it's about unlawful activities, it is about the trust New Zealanders place in the Government and Parliamentary systems. If passed, this Bill will place more power in the hands of a Board which the Government has admitted have acted unlawfully – a Board that have continually got it wrong, and a Board that has a dysfunctional relationship with a large percentage of the industry it regulates. An industry that is not opposed to fair and transparent discipline of registered persons and not opposed to the prosecution of non registered persons.

This Bill is imposing a levy on the industry where the Industry is paying for something that is for the greater good of the public - 7100 trades people paying for wrong decisions made by the public when employing unregistered people and then for the subsequent prosecution of those people.

The facts you may NOT have been told.

- ***The composition of the levy and fee do not meet the requirements of the Plumbers Gasfitters and Drainlayers Act 2006 (the Act).*** The fee and levy contain costs that are not costs arising out of investigations as required by the Act such as “Board entertainment” a “road show”, and numerous one off projects.
- ***The Board collects \$34,953 per week for discipline and offences.*** Last year's annual report showed expenditure of \$297,449 for complaints and discipline and \$312,145 for prosecutions. A total of \$609,594 or \$11,722 weekly. It appears the remaining \$23,231, not spent on costs arising out of discipline or prosecutions, goes on overheads. Only 13 people were prosecuted from last year's complaints about non-registered people.
- ***There are no authorities to back up the validation and the new sections of the Act.*** The Bill is seeking to levy money from the industry where the Board has no statutory authority to perform the tasks claimed by the Board that the money is collected for. There is no subpart or part of the Act which lays down authorities or procedures for dealing with non registered people.

- **The function of the Board as detailed in the Act is “to institute prosecutions...”** but no authorities were put in place for the Board to prosecute in the manner which they have, however what was put in the Act was infringement notices. The intent of the Act is obviously for Infringement Notices to be used.
- **The Board spends \$395,000 annually on external lawyers** even though they employ an internal legal team including General Counsel, a couple of other lawyers and support staff.
- **The industry is to be taken out of line with other industries.** No other “like” industries are 100% funding their Boards or levying practitioners for offences by non registered people. The Minister often alludes to the fact that this is so, but you can check Licensed Builder Practitioners and Electricians do not pay these fees and levies.
- **The Board will not be insolvent if this Bill is not passed.** The annual licensing period will be over by the time the bill is passed. The Board also has over \$1.3 million in reserves.
- **Handing on of costs.** The majority of trade’s people in the industry are employees who are responsible for paying their own licence fees and as such cannot pass on costs. A lucky few (a small minority) have it paid by their employer. An individual meeting conditions of licensing, paying fees and levies can expect to pay at least 5% (\$2,200.00) of their take home pay annually just so they can work. The cost to employers is even greater.
- **The Board knew they were at legal risk.** They had been warned by the industry that what they were doing was unlawful but they choose to ignore the industry and did not take “reasonable care” to ensure the legality of what they were doing. Even when the Regulation Review Committee recommended the disallowance of the regulations, the Board left in place the regulation knowing them to be wrong.
- **The Board continued on with legal risk.** The Board gazetted a further notice where it had separated the Discipline Levy and created an Offences Fee which was also the subject of a complaint to the Regulations Review Committee, who convened a hearing into the complaints laid and as part of that hearing the Office of the Auditor General gave an opinion that the Offences Fee implemented by the Board was more akin to a levy than to a fee and the Board had no statutory authority to implement the fee. The outcome of the hearing is still awaited however the Board, displaying a total disregard to the evidence already before the Regulations Review Committee, gazetted a new Fees Notice which came into effect on 17 January 2013. This Fees Notice totally ignored the opinion of the OAG and we believe, was a total act of bad faith to the industry and the public of New Zealand.
- **Scheduled activities.** There is a scheduled review of the Act and a scheduled review by the Office of the Auditor General this year so is no need for the Amendment Bill.

There are no real problems with the Act but it is more with the manner in which it is interpreted. The appointment of the Board requires two plumbers, two gasfitters, two drainlayers, two people to represent the interests of the public and two others. It doesn’t state **ten** people to represent the interests of the public which is the way the Board operates.

The passing of this Amendment Bill will show the New Zealand Public that it is a waste of time going to the two bodies established to protect the public from unscrupulous government bodies. The Bill snubs the decisions made by the Office of the Ombudsman and the Regulations Review Committee and puts their credibility on the line. The passing of this Bill shows the public that members of the Regulation Review Committee can walk out a Committee meeting where they have just unanimously voted to recommend the disallowance of a regulation and then vote against that proposal.

Does Parliament want to send a message to the public that the system only works until it gets to the House of Representatives and then the needs of an individual Minister to cover his lack of leadership and the incompetence of the Board he appointed take over? If the Hon Maurice Williamson knows more than the RRC, more than the Auditor General and more than the Ombudsman then why not move from democracy and have a dictatorship because that's what this Amendment Bill is doing - following the word of one person.

Implementing retrospective law is a desperate measure and to validate the actions of the Plumbers Gasfitters and Drainlayers Board is setting a very dangerous precedent.

The Board does have its place in the regulatory system but not in the manner it is used at the present time and certainly not with this Minister and appointed Board. This Amendment Bill will not take away the Board's liability under section 171 of the Plumbers Gasfitters and Drainlayers Act 2006. They have lost the respect and confidence of the industry and will be held accountable.

How can this Board ever sit in judgement when they have broken the law themselves, whether through mistake or purposeful act and then the House has changed the law to say they are innocent of such activity?

The Government's last action in voting against the recommendations of the Regulations Review Committee and now attempting to intervene again to cover for the Board has fueled a simmering situation and no matter what, this Board and Minister will never be in a position to govern this industry again and achieve results. Their actions were wrong and their time is up. This Amendment Bill, if passed, will simply add to the animosity which is growing daily.

As stated at the start of this letter this is about more than the money, it's about rights. It's also about public perception – public perception about what is right.

We are rapidly approaching ANZAC Day, a day most New Zealanders remember with pride those that have gone before and what they fought for. The writer last night thought about the medals that should be polished in preparation for ANZAC Day. His medal, those of his deceased father and those of his uncle who never returned from the Second World War and performed a simple test – he put his hand on his heart and asked a simple question “can he wear these medals with pride this ANZAC day?”- pride that the service was not in vain. He fears those medals will not be worn again.

We ask you to do the same – put your hand on your heart and ask the question “is voting for this Bill the right thing to do, is it why I am in Parliament, is it something I can be proud of and tell my grandchildren about?” Don't risk your morals, values and credibility to cover incompetence.



Wal Gordon
Chairman
Plumbers, Gasfitters and Drainlayers Federation