

2004

LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

WATER AND SEWERAGE AMENDMENT BILL 2004

GOVERNMENT AMENDMENTS

SUPPLEMENTARY
EXPLANATORY STATEMENT

Circulated by authority of the
Minister for Planning
Mr Simon Corbell MLA

Water and Sewerage Amendment Bill 2004 – Government amendments

Outline

The Water and Sewerage Amendment Bill 2004 contains provisions that require certain plumbing work to be done in accordance with technical requirements set out in the Bill.

To give effect to those requirements the Bill inserts a provision into the *Water and Sewerage Act 2000*, which creates an offence against a licensee that does water supply plumbing work in relation to certain plumbing fixtures, if the work contravenes a requirement under the *Water and Sewerage Regulations 2001*.

It also inserts provisions into those regulations, which set out technical requirements for doing work in relation to those plumbing fixtures.

Those fixtures are certain showers, taps and sinks. The technical requirements are in relation to requiring taps to be fitted with flow reducers, showers being controlled by a flow-reduced tap or being a certain water-efficient kind, and prohibiting the connection of garbage disposal units to sinks.

The desired outcomes are to conserve water and reduce the amount of nutrients that garbage disposal units contribute to the sanitary waste stream. Excessive nutrients in treated sewage can be environmentally detrimental to waterways that the high nutrient wastewater is eventually discharged into.

The Government amendments to the Water and Sewerage Amendment Bill 2004 have the effect of rewriting or adjusting all of the Bill's provisions other than its preliminary administrative provisions, whilst preserving the water conservation and nutrient reduction goals, but approaching water conservation in a less broad and more targeted and practical manner than the Bill as tabled.

The Government amendments also correct the Bill's technical errors.

Notes on amendments

Amendments 1 to 3—

**clause 4, proposed new section 17A heading, page 3, line 6; and
clause 4, proposed new section 17A (1) (a), page 3, line 8; and
clause 6, proposed new regulation 16A heading, page 4 line 7.**

The amendments make adjustments to the headings of the Bill's section 17A and regulation 16A and to the preamble of paragraph 17A (1) (a). Those adjustments add the term "sanitary plumbing work" to the headings and provision.

They are necessary as section 17A creates an offence, which can be committed in respects of 2 distinct kinds of plumbing work—

water supply plumbing work, (in the Bill that includes work to taps and showers);
and

sanitary plumbing work, (in the Bill that includes work to connect a garbage disposal unit to a sink);

whereas, as tabled, the Bill's section 17A only refers to *water supply plumbing work*.

Both of the above-mentioned terms are defined in the *Construction Occupations Licensing Amendment Act 2004* ("COLAA"), which upon its commencement will insert those definitions into the *Water and Sewerage Act 2000*. The Bill indirectly provides for its commencement on or after the day that COLAA commences.

An undersink garbage disposal unit falls within the COLAA definition of *sanitary plumbing*, as such a unit is a "fixture or water appliance that is not in or in contact with the ground and that is used, or for use, in relation to the collecting or carrying of sewage to a sanitary drain". All wastewater from a kitchen sink is defined by COLAA as *sewage*, and the outlet pipe of a garbage disposal unit ultimately discharges into a *sanitary drain*.

For clarity, relevant extracts of definitions from COLAA are recited further below.

Without the addition of a reference to *sanitary plumbing work* the Bill's objective of prohibiting the installation of garbage disposal units may not be achieved, as the Bill's relevant wording lacks a necessary reference to *sanitary drainage work*, but instead inappropriately refers to *water supply plumbing work* in relation to garbage disposal units.

Relevant extracts from COLAA are as follows—

Schedule 2, part 2.27, clause 2.118, (Dictionary, definition of *sewer*)

sewage—

- (a) means waste water from the community, including faecal matter, urine and household and commercial waste water that contains human waste; but
- (b) does not include stormwater.

Schedule 1, part 1.3, clause 1.8, (new Dictionary, new definition of *sanitary drain* and *sanitary plumbing*)

sanitary plumbing—

- (a) means a pipe, fitting, fixture or water appliance that is not in or in contact with the ground and that is used, or for use, in relation to the collecting or carrying of sewage to a sanitary drain; and
- (b) includes a fitting used, or for use, in the diversion of grey water, or for the direct connection of a grey-water irrigation hose; but
- (c) does not include a grey-water irrigation hose used, or for use, in relation to the carrying of grey water directly to a grey-water irrigation area.

Schedule 2, part 2.27, clause 2.117 (Dictionary, new definitions of sanitary drainage work and sanitary plumbing work)

sanitary plumbing work—

- (a) means the installation, replacement, augmentation, curtailing, maintenance, repair, or alteration of the location of all or part, of sanitary plumbing; but
- (b) does not include—
 - (i) inspecting sanitary plumbing, clearing a blockage or obstruction of the plumbing or cleaning the plumbing unless the inspecting, clearing or cleaning involves damage to, or removal of part of, the sanitary plumbing or is done for reward; or
 - (ii) the operation of a grey-water diverter.

Schedule 2, part 2.27, clause 2.117 (Dictionary, definitions of water network)

water service—

- (a) means the part of the water supply pipework used, or for use, for water supply from a primary water source up to and including outlet valves at fixtures and water appliances; and
- (b) includes an irrigation system; but
- (c) does not include a fire sprinkler system or part of a water network.

water supply plumbing work—

- (a) means the installation, replacement, augmentation, curtailing, maintenance, repair, or alteration of the location of all or part, of a water service or a hot-water system; and
- (b) includes fire sprinkler work; but
- (c) does not include removing a washer or something similar from a tap or valve, or repairing or fitting the washer or the similar thing, unless the removal, repair or fitting involves damage to part of—
 - (i) a water service; or
 - (ii) a hot-water system; or
 - (iii) an irrigation system; or
 - (iv) a fire sprinkler system.

Amendment 4—clause 6, new regulation 16A (1), page 4, line 9.

The amendment omits the Bill's regulation 16A (1) and substitutes an alternative subregulation 16A (1) and several additional subregulations, 16A (1A) to 16A (1G).

Alternative subregulation 16A (1) prescribes requirements in relation to certain showers, taps and garbage disposal units including prescribing that the maximum flow capacity of the water supply fixtures it refers to shall not be more than 9 litres per minute. Whereas the Bill as tabled prescribes a 3A water efficient rating under AS/NZS 6400, the Australian and New Zealand Standard for water efficient products—rating and labelling.

The amendment effectively changes the Bill from prescribing a 3A water efficiency rating to instead prescribing a “maximum flow capacity”, for showerheads. That is necessary to avoid the Bill's provision unintentionally prohibiting the installation of showerheads that have a more efficient flow rating than 3A, and to cater for foreshadowed changes to the A-rating system in AS/NZS 6400. The relevant flow range for showerheads with a 3A rating under AS/NZS 6400 is a rate of more than 7.5 litres per minute but not more than 9.0 litres per minute. Mandating a 3A-rated outlet therefore prohibits the installation of an outlet that has a flow of less than 7.5 litres per minute. Standards Australia has a proposal to soon change the A-rating label in AS/NZS 6400 to a star rating label.

The current range of flow ratings in AS/NZS 6400 is from 1A (lowest level of efficiency) to 5A (highest level of efficiency). The basis for prescribing a maximum flow capacity of 9 litres per minute is that that equates to the maximum flow permissible for most 3A-rated outlets and taps under AS/NZS 6400. The 3A rating is just above the mid-range of that A-rating scheme, and represents significant water conservation compared with taps that are not water efficient, while allowing a flow rate that is generally suitable for virtually all normal uses of the tap or outlet.

Where alternative subregulation 16A (1) applies to taps it only applies to certain taps for kitchen and laundry sinks or any other kind of basin. Whereas the Bill, as tabled, has application to all kinds of taps within specified criteria. The Bill as drafted may have unintended consequences such as requiring flow reduction of the main water supply tap inside a block of flats. That tap may serve pipework that also connects to domestic fire sprinklers. The Bill as drafted is not sufficiently specific about all of the kinds of taps it applies to to ensure it does not apply where not intended.

To avoid such undesirable consequences the tap related provisions of alternative subregulation 16A (1) only apply to taps for kitchen and laundry sinks or any other kind of basin. They are the main taps responsible for the majority of water wasted by allowing water to directly flow down the drain without always using a plug to retain the water. The Bill as tabled requires bath taps, for example, to be flow-restricted, which does not contribute to water conservation, as a bath is normally filled with a fixed amount of water regardless of the rate of filling.

Another unintended consequence of the Bill as drafted is that because it mandates the installation of taps with a secondary flow reducer, that will prohibit the installation of taps that are inherently water efficient that have not had a secondary flow reducer added. For many such taps no such secondary reducer is available.

That is the case for many lever-handle style taps. They can be factory set to achieve any flow rate including the highest level of water efficiency rating, 5A, but for most there are no secondary flow reduction devices available. That is because they do not use a traditional tap washer as their valve mechanism. So the Bill as tabled would prohibit the use of such taps. The Government amendments overcome that unintended consequence by indirectly allowing a tap of any rating to be installed provided it is equal to, or more efficient than, the 9 litres per minute maximum flow limit for most 3A-rated taps and outlets.

Additional subregulation 16A (1A) is necessary to compliment the provisions of alternative subregulation 16A (1). It requires the prescribed 9 litres per minute flow capacity mentioned in alternative subregulation 16A (1) to be worked out using AS/NZS 6400 as in force from time to time. That standard sets out a method of testing the flow rate of taps and other water efficient products. It is not intended, however, that taps or showerheads be necessarily labelled or certified in accordance with that standard however.

Additional paragraph 16A (1B) (a) exempts the Bill from applying to those parts of dwellings that are, or will be, used for conducting a home business. That is necessary because some businesses rely on having unrestricted water flow in their commercial or medial processes. For example a machine used in a home business may require a water supply of 12 litres per minute. There may be no tap that can otherwise supply that flow rate with its flow restricted in accordance with the Bill as tabled.

Additional paragraph 16A (1B) (b) exempts the Bill from applying to domestic water supply plumbing work that is done in relation to a tap if water is supplied, or will be supplied, at a usual pressure of less than 50kPa. That is necessary to avoid a situation where the flow of water to a dwelling is normally so low that further restricting that flow would produce an unsatisfactorily low flow. The normal water pressure in

Canberra urban areas is generally around 500kPa to 800kPa, but is always above 50kPa even in the exceptionally low-pressure areas. Therefore the exemption that the clause provides will generally only apply to small-scale rural water supplies. The clause provides an example of a circumstance where it would apply—a home on a farm supplied with bore water at a pressure of less than 50kPa. Other circumstances could include certain gravity fed or low pressure pumped water from a tank or dam, for example. Further, the amendment caters for the fact that many water efficient taps do not function adequately at a water pressure below 50kPa.

Additional subregulation 16A (1C) provides a definition of the term *domestic*, which is mentioned elsewhere in proposed Government Amendment 4, to limit application of the Bill's provisions to domestic situations. The definition covers certain residential premises and is necessary to remove doubt that the Bill applies in some large-scale supported accommodation buildings, such as facilities providing multi-bed residential care for a group of older people in the one building. It is also intended to clarify that the Bill does not apply to a hospital or hotel for example, except where the hospital or hotel provides residential facilities as opposed to short-stay accommodation.

Additional subregulations 16A (1D) and 16A (1G) provide transitional dispensation provisions that apply to the tap flow reduction requirements of proposed Government Amendment 4, until 1 July 2005. That is necessary to provide reasonable time for entities affected by the Bill's relevant requirements to prepare for their commencement.

Those transitional provisions are intended to allow any kind of tap to be installed before 1 July 2005, provided that it complies with at least 1 of the following criteria—

- it complies fully with Bill's 9 litre flow capacity requirements, as amended by Government Amendment 4; or
- where it does not comply with that flow capacity it is fitted with a *compatible* secondary flow reducer if such a reducer is reasonably available, in the ACT market, to suit the tap. Additional subregulations 16A (1E) and 16A (1F) provide some clarification on what the term *compatible* means; or
- where the tap does not meet either of the 2 criteria above, and no suitable flow reducer is reasonably available in the ACT market for the tap, it may be installed nevertheless, provided the installation is completed before 1 July 2005.

It is not intended that where the secondary flow reducer is required that—

- (a) it achieve any predetermined flow reduction, provided it does make a reduction of an appreciable degree; nor
- (b) it be installed if it will produce a flow that compromises the reasonable operation of any device supply the tap or outlet with water, for example, a continuous flow water heater.

The transitional provisions expire on 1 July 2005 to coincide with the commencement of the Government amendment's requirement for all relevant taps to have a maximum flow capacity of 9 litres per minute.

Additional subregulations 16A (1E) and 16A (1F) provide some clarification on what the term *compatible* means where it is used in alternative regulation 16A (1). The meaning includes that a *secondary device* is not *compatible* if use of the device with a tap would void the tap manufacturer's warranty. Additional subregulation 16A (1F) explains, however, that additional subregulation 16A (1E) does not limit the circumstances of when a secondary device can be taken to be not *compatible* for the purposes of regulation 16A.

Amendment 5—clause 6, new reg 16A (2), page 5, line 8.

The amendment makes a consequential change to a cross-reference in the Bill to cater for the Government amendments. The cross reference is in relation to the Australian and New Zealand Standard, AS/NZS 6400 Water efficient products—Rating and labelling.

Cost implications

Nil.