

Building and Plumbing Newsflash 567

Guidance on the use of approved plumbing and drainage forms by local governments, including permitted changes

Purpose

To clarify the requirements for approved plumbing and drainage forms, including the scope for local governments and applicants to adapt forms to suit their operating/technology requirements.

Background

The *Plumbing and Drainage Act 2018* (the new Act), the Plumbing and Drainage Regulation 2019 (the new Regulation), along with a new Queensland Plumbing Wastewater Code began on 1 July 2019.

New [approved plumbing and drainage forms](#) came into effect for the assessment and approval of plumbing applications made from 1 July 2019.

Applications lodged before 1 July 2019, will be dealt with under the repealed *Plumbing and Drainage Act 2002*.

Approved forms

What are approved forms?

An approved form is one that is prescribed or approved under an Act.

Under section 152 of the new Act, the chief executive or commissioner may approve forms.

Approved forms are commonly required for applications and other functions associated with the plumbing and drainage assessment, or approval process, to ensure compliance with plumbing laws.

The use of approved forms assists local governments to administer the plumbing laws to ensure compliance with the relevant laws and codes, and promotes consistency for practitioners across local government areas.

Legislative requirements

Under section 48A of the *Acts Interpretation Act 1954* (AIA), if a form is prescribed or approved under an Act, substantial compliance with the form, rather than strict compliance, is sufficient.

What amounts to substantial compliance depends on the individual form and its requirements for the completion as set out in the relevant provisions of the legislation.

As primary receivers of forms under the new Act, local government and the Queensland Building and Construction Commission are responsible for determining whether a form is substantially compliant or not.

Each decision will be made on a case-by-case basis. Anyone lodging a form on the basis it is 'substantially compliant' should consider consulting with the recipient to ensure they will accept any change.

Which approved forms should you use?

The trigger for which approved forms to use and the assessment and inspection regime enforced by local government is determined by the date of the original permit application.

If the application for the permit for plumbing and drainage work is lodged:

- on or after 1 July 2019—use the approved forms for the new Act. The work will be assessed and inspected in accordance with the new Act
- before 1 July 2019—use the approved forms for the repealed Act. The work will be assessed and inspected in accordance with the repealed Act.

Example 1

A [Form 1—Compliance assessment for plumbing, drainage and on-site sewerage work](#) (v 8/2014), was lodged by the applicant on 15 June 2019.

As the form was lodged before 1 July 2019, the compliance permit issued is taken to be a compliance permit under the repealed Act and continues on the same conditions.

If the period for providing any information requested had not elapsed before the start of the new laws, the information request must be dealt with under the repealed Act.

The assessment and inspection regime, including approved forms, are to be dealt with under the repealed Act.

Example 2

A [Form 1—Compliance assessment for plumbing, drainage and on-site sewerage work](#) (version 8/2014) was lodged by the applicant on 2 July 2019.

The new [Form 1—Permit work application for plumbing drainage and on-site sewerage work](#) (version 1/2019) is the correct form to use and local government may refuse the application as not being a properly made application.

However, local governments may accept a form approved under the repealed Act after 1 July 2019, if they consider it substantially complies with the requirements under the existing plumbing laws.

Local governments ability to adapt approved forms to suit operating/technology requirements

The AIA provides for local governments to adapt approved forms to suit their operating/technology requirements. This could involve:

- adding additional fields that assist local government to carry out their role under the new Act; or
- adding the local government logo.

For example, it is permissible for local government to add a field to an approved form requesting a postal address or requiring the licensees to confirm that an application is a properly made application in accordance with section 44(4) of the new Regulation.

Mandatory fields

All fields in the original approved form are mandatory and must be incorporated into any amended version.

Question: Does a local government have to accept the forms nominated on the department's website as the "approved form"?

Answer: Yes, if an applicant lodges an approved form, the local government must accept the form.

Requirements

To meet the substantial compliance requirement under the AIA, any adapted form should:

- have a heading that states the authorising law and briefly indicates the form's purpose, including that it is an approved form under the new Act (quoting the section number where applicable)
- contain the form number that directly corresponds to the approved form
- contain the correct version number of the form
- contain the privacy notice (if applicable); and
- must contain data fields that are consistent with the fields contained in the approved form.

It is the responsibility of local government to refer to section 48A of the AIA, to ensure that any amended approved form complies with the relevant sections of both the AIA and the plumbing laws.

Electronic lodgement

The new Act provides for properly made applications to be lodged electronically.

A number of local governments have sought to improve the efficiency of their administration of the new Act by making use of online platforms. These online platforms obtain the data required by the approved form. By facilitating electronic lodgement, these applications benefit both the applicants and local government with reduced lodgement and processing times. A local government can adopt electronic lodgement of applications provided they also accept physical approved forms.

Electronic signatures

Section 14 (Requirement for signature) and section 15 (Other particular laws not affected) of the *Electronic Transactions (Queensland) Act 2001* provide the requirements for electronic communications. Under this Act, the name of the person issuing the notice can replace their signature.

Fees for lodgement of documents

Section 99 of the *City of Brisbane Act 2010* and section 97 of the *Local Government Act 2009*, provides for local government to set certain fees, under a local law or by resolution. This includes a fee for a permit application, the keeping of information, or the performance of another responsibility imposed on the local government under the new Act.

Applicant's ability to adapt approved forms

Local governments may accept an applicant's version of an approved form (hardcopy or electronic) if they consider the form substantially complies with the requirements under the existing plumbing laws and conforms to their operating/technology requirements.

Question: Are the use of reporting applications (commonly referred to as "apps") permitted?

Answer: Local governments may permit the use of apps, particularly for reporting testing data, if they consider the information supplied substantially complies with the requirements under the existing plumbing laws and conforms to their operating/technology requirements.

All fields in the approved form are mandatory and must be incorporated into an applicant's version of an approved form or app design. Approval from the local government must be gained in advance of use.

The ability of applicants to adapt approved forms or use apps is entirely at the discretion of the local government.

Legislation

The following legislation relates to this Building and Plumbing Newsflash:

- The [Plumbing and Drainage Act 2018](#)
- The [Plumbing and Drainage Regulation 2019](#)
- The repealed [Plumbing and Drainage Act 2002](#)
- The replaced [Plumbing and Drainage Regulation 2003](#)
- Section 48 of the *Acts Interpretation Act 1954*
- Section 99 of the *City of Brisbane Act 2010*
- Section 97 of the *Local Government Act 2009*.

Contact us

Building Legislation and Policy

Department of Housing and Public Works

Email: BLP@hpw.qld.gov.au

If you have not received this Newsflash directly from Building Legislation and Policy, you can subscribe via bcqnewsflash@qld.gov.au.