



In this issue we have articles on the following subjects:

- Schedule 1 Building Act 2004 – Guidance from the Department of Building and Housing
- Building Amendment Bill No 3 – Make a Submission
- Making a Submission to a Parliamentary Select Committee
 - Building Act Review
 - Accountability in Building and Construction
 - Consumer Support
 - Proposed Changes to Building Controls
 - Nationally Consistent System
- Designing Comfortable Homes – Download for free from www.ccanz.org.nz
- Quiz on articles in this newsletter

For any enquiries regarding this news sheet, please contact Simon Tonkin on (03) 211 1777



BUILDING WORK THAT DOES NOT REQUIRE A BUILDING CONSENT

A guide to Schedule 1 of the Building Act 2004

The Department has recently revised the guidance on building work that does not require a building consent.

Purpose and Schedule 1

This document provides guidance on the types of building work that do not require a building consent under Schedule 1 of the Building Act 2004 (the Building Act).

This document is mainly for industry professionals (e.g. architects, designers, building officials, engineers, licensed building practitioners, building surveyors etc) who are providing advice or about to undertaking building work. Its overall purpose is to help inform decisions around whether proposed building work would qualify for one of the exemptions in Schedule 1 of the Building Act.

Background

The Building Act includes types of building work that are exempt from the requirement to obtain a building consent.

These exemptions recognise that certain low-risk minor building work should not be subject to the normal requirements of the building consent approval and inspection process because these compliance costs are outweighed by the benefits obtained. Exempt building work is generally work that will not affect the structural integrity or life safety components of the building.

The list of exempt building work is contained in Schedule 1 of the Building Act. In December 2010, this list was expanded further to include more exemptions.

You can download the guidance document from the Department of Building and Housing website www.dbh.govt.nz.

The current version of exempt building work is entitled A Guide to Building Work That Does Not Require a Building Consent – Building Act 2004, Second Edition, December 2010.

Introduction

This document explains issues related to exempt building work under Schedule 1 of the Building Act 2004 (the Building Act). If you are intending to start a building project, it is recommended that you check whether the building work requires a building consent. If the work, or part of it, does not require a consent you may save time and money.

The Building Act 2004

The Building Act introduced changes to the way the building industry in New Zealand is regulated, with the intent of providing greater assurance to consumers. The Building Act provides a framework to support and promote safe, high-quality building work that will satisfy the expectations of consumers, government and the building industry. Continued successful implementation of the Building Act is critical for development and growth in all regions of New Zealand.

The government's aims in introducing the Building Act are to achieve:

- more clarity on the standards buildings are expected to meet
- more guidance on how those standards can be met
- more certainty that competent and capable people are undertaking the work
- more scrutiny in the building consent and inspection process.

The Building Act helps ensure better decision making throughout the building process, and provides more assurance to consumers and homeowners that buildings are designed and built right the first time. The Building Act requires territorial and regional authorities (councils) to be accredited as building consent authorities. Building consent authorities issue building consents and undertake enforcement where building work fails to meet the requirements of the Building Act.

Building owners are generally required to obtain a building consent from a building consent authority to carry out building work. In practice a builder, designer or architect acting as the owner's agent may also obtain a consent on behalf of the building owner. The consent is necessary to ensure proposed building work complies with the New Zealand Building Code (e.g., building, plumbing, drainage, fire and accessibility requirements) and is therefore, safe, sanitary and otherwise suitable for its intended use.

- The Building Act does allow a limited range of building work to be carried out without a building consent. Most 'exempt building work' is listed in Schedule 1 to the Building Act.

Overview

- The Building Act prescribes the processes that building consent authorities and building owners must comply with when undertaken building work.
 - The Act requires people intending to undertake building work to apply for a building consent unless the work is 'exempted'. Schedule 1 of the Act lists the building work that does not require a building consent.
-

Obtaining a building consent for building work is the responsibility of the building owner. It is important therefore to obtain good advice before deciding that the building work is covered by the exemption provisions set out in the Schedule 1.

If you are experienced in the building industry, and understand the technical requirements of the Building Act and the New Zealand Building Code, you should easily recognise whether exemptions apply to your project. If you are unsure, however, then you should contact your local building consent authority (your local city or district council) for advice. Building consent authorities have a wide range of building control expertise and information about exemptions and the building consent process.

Depending on the nature of the building work, you might also wish to seek advice from a licensed building practitioner (LBP), architect, building surveyor, engineer, or some other person with experience in the building industry. In dealing with LBPs it is important to note that there are several different categories of LBP, and you should ask the LBP if they are licensed in the relevant class before accepting their advice. A LBP who holds a carpentry / site 1 class of building licence should be able to advise you about most kinds of exempt building work contained in the Schedule.

All registered architects will also be able to advise you about the building work you intend to carry out, and whether the exemptions in Schedule 1 apply to that work.

How is building work defined and are there exemptions from the requirement to get a building consent?

The Building Act applies to all building work. Building work is defined under section 7 of the Act and the Act generally requires a building owner to obtain a building consent from a building consent authority before undertaking building work. All building work (regardless of the need for a building consent) must comply with the Building Code.

The definition of building work in the Building Act is any work related to or in connection with the construction, alteration, demolition or removal of a building. Because the definition is so broad, it is generally the case that almost all building work is potentially work that requires a building consent. Certain building work is exempt from the building consent requirements of the Act. Most of the exempt building work is listed in Schedule 1 to the Act.

When exemptions apply will depend on the kind of work being undertaken, the scope of the work, and the extent of the proposed building work. For example, a retaining wall may be exempt if the dimensions of the retaining wall are such that the wall is less than 1.5 metres in height and the retaining wall is not supporting surcharge or additional loads such as vehicle access or foundations.

While the Building Act provides for exemptions, there might be other laws that you need to comply with. These include, but are not limited to:

- the Building Code
- the Resource Management Act 1991
- the Plumbers, Gasfitters, and Drainlayers Act 1976
- the Electricity Act 1992
- the Health Act 1956
- any local government bylaws.

Why were the exemptions included in the Building Act?

Because the Building Act covers such a broad range of building work, it was anticipated that some low risk building work should not be subject to the normal requirements of the building consent approval process. Exempt works are generally works that will not impact on the structural integrity or safety components of the building. For example, repair and maintenance work is exempt provided the work is lawful and comparable materials are used, or the work is a replacement with a comparable component or assembly in the same position. However, even exempt building work must comply with the Building Code.

What building work is listed as exempt building work?

Schedule 1 of the Building Act 2004 sets out the circumstances where building work is exempt from needing a building consent. Its intent is to apply an appropriate balance between minimizing compliance costs (by exempting low-risk and minor building work from the consent process), and requiring some consistent regulatory oversight of building work that could risk health and safety.

Schedule 1 to the Building Act 2004 has recently been amended to expand the range of building work that does not require a building consent (a copy of the proposed revised Schedule is attached as Appendix 1). While the proposed amendments have been widely publicised, we wish to raise awareness about the amendments.

The amendments to Schedule 1 provisions for building consent exemptions are intended to:

- clarify the 'in or out' status of some specific types of building work that have created uncertainty
- confirm that, in particular, 'durability' matters such as weathertightness repairs are not appropriate to exempt from building consent requirements
- reflect more clearly the principles and policy intent behind the provision for exemptions for some building work from requiring a building consent (work that is 'low risk and minor').

Further information

If you have any further questions about exempt building work, or are uncertain whether the work you wish to undertake is exempt building work, you should contact the Council as your local building consent authority.

Even though some work may be exempt under Schedule 1, owners may wish to submit records of the changes to the building consent authority to be placed on the property file.

The following list is work that does not require a building consent.

You will note that some items seem to appear twice, for example g and gn are for the construction of a platform, g states 1.0m and ga states 1.5m. This is because the amendment act had not been passed at the time that Schedule 1 had items added to it.

Regulations can be made to add items to Schedule 1 and an Act of Parliament is required to remove items from that Schedule.

Building

(Exempt Building Work)

Order 2010

Effective 23 December 2010

Building (Exempt Building Work) Order 2010

(The order comes into force on 23 December 2010)

A building consent is not required for the following building work:

- (a) any lawful repair and maintenance using comparable materials, or replacement with a comparable component or assembly in the same position, of any component or assembly incorporated or associated with a building, including all lawful repair and maintenance of that nature that is carried out in accordance with the Plumbers, Gasfitters, and Drainlayers Act 1976, except—
 - (i) complete or substantial replacement of a specified system; or
 - (ii) complete or substantial replacement of any component or assembly contributing to the building's structural behaviour or fire-safety properties; or
 - (iii) repair or replacement (other than maintenance) of any component or assembly that has failed to satisfy the provisions of the building code for durability, for example, through a failure to comply with the external moisture requirements of the building code; or
 - (iv) repair or replacement of any water storage heater connected to a solid-fuel heater or other supplementary heat exchanger, except for the repair, or replacement with a comparable heater, of any open-vented water storage heater using the same pipe work.
- (ab) the opening and reinstatement of any purpose-made access point within a drainage system that—
 - (i) is not a NUO system or part of a NUO system; and
 - (ii) is carried out in accordance with the Plumbers, Gasfitters, and Drainlayers Act 1976.
- (ac) the alteration to drains for a dwelling, if the alteration—
 - (i) is of a minor nature (for example, shifting a gully trap); and
 - (ii) does not include making any new connection to a service provided by a network utility operator; and
 - (iii) is carried out in accordance with the Plumbers, Gasfitters, and Drainlayers Act 1976.
- (ad) the alteration to existing sanitary plumbing (as defined in section 3 of the Plumbers, Gasfitters, and Drainlayers Act 1976) in a dwelling (for example, replacing a bath with a shower or moving a toilet) carried out in accordance with the Plumbers, Gasfitters and Drainlayers Act 1976.
- (ae) the installation, replacement, or removal in any existing building of a window (including a roof window) or an exterior doorway if—
 - (i) compliance with the provisions of the building code relating to structural stability is not reduced; and
 - (ii) in the case of replacement, the window or doorway being replaced satisfied the provisions of the building code for durability.
- (af) the alteration to an entrance or an internal doorway of a dwelling to improve access for persons with disabilities, if compliance with the provisions of the building code relating to structural stability is not reduced.
- (ag) the alteration to the interior of any non-residential building (for example, a shop, office, library, factory, warehouse, church, or school), if the alteration does not—
 - (i) reduce compliance with the provisions of the building code that relate to means of escape from fire, protection of other property, sanitary facilities, structural stability, fire rating performance, and access for persons with disabilities; or
 - (ii) modify or affect any specified system.

- (ah) the replacement or alteration of linings or finishes of any internal wall, ceiling, or floor of a dwelling.
- (b) the construction or alteration of any motorway sign, stopbank, culvert for carrying water under or in association with a road, or other similar structure that is a simple structure and is owned or controlled by a network utility operator or other similar organisation.
- (ba) the construction, installation, replacement, or alteration of a sign (whether free-standing or attached to a structure) and any structural support of the sign, if—
 - (i) the surface area of the sign does not exceed 6 square metres and the sign does not exceed 3 metres in height above the supporting ground level; or
 - (ii) the sign has been designed by a chartered professional engineer:
- (bb) the construction, installation, replacement, alteration, or removal of a height-restriction gantry.
- (c) construction or alteration of any retaining wall that retains not more than 1.5 metres depth of ground and that does not support any surcharge or any load additional to the load of that ground (for example, the load of vehicles on a road).
- (ca) the construction, alteration, or removal of an internal wall (including the construction, alteration, or removal of an internal doorway) in any existing building if—
 - (i) compliance with the provisions of the building code relating to structural stability is not reduced; and
 - (ii) the means of escape from fire provided within the building are not detrimentally affected; and
 - (iii) the wall is not made of units of material (such as brick, burnt clay, concrete, or stone) laid to a bond in and joined together with mortar.
- (d) the construction or alteration of any wall (except a retaining wall or internal wall), fence (except a fence as defined in section 2 of the Fencing of Swimming Pools Act 1987), or hoarding, in each case of a height not exceeding 2 metres above the supporting ground.
- (da) the construction or alteration or alteration of any dam that is not a large dam.
- (daa) the construction or alteration of any wall (except a retaining wall or an internal wall), fence (except a fence as defined in section 2 of the Fencing of Swimming Pools Act 1987), or hoarding, in each case of a height not exceeding 2.5 metres above the supporting ground.
- (db) the construction, installation, replacement, or alteration of a retaining wall in a rural zone, if—
 - (i) the wall retains no more than 3 metres depth of ground; and
 - (ii) the distance between the wall and any legal boundary or existing building is at least the height of the wall; and
 - (iii) the wall has been designed by a chartered professional engineer.
- (e) the construction or alteration of any tank or pool and any structural support of the tank or pool (except a swimming pool as defined in section 2 of the Fencing of Swimming Pools Act 1987), including any tank or pool that is part of any other building for which a building consent is required,—
 - (i) not exceeding 35 000 litres capacity and supported directly by the ground; or
 - (ia) not exceeding 16 000 litres capacity and supported not more than 0.25 metre above the supporting ground; or
 - (ib) not exceeding 8 000 litres capacity and supported not more than 0.5 metre above the supporting ground; or
 - (ic) not exceeding 4 000 litres capacity and supported not more than 1 metre above the supporting ground; or
 - (ii) not exceeding 2 000 litres capacity and supported not more than 2 metres above the supporting ground; or

- (iia) not exceeding 1 000 litres capacity and supported not more than 3 metres above the supporting ground.
 - (iii) not exceeding 500 litres capacity and supported not more than 4 metres above the supporting ground.
- (f) the construction, alteration or removal of any tent or marquee that has a floor area not exceeding 50 square metres if that tent or marquee is to be, or has been, used for public assembly for a period of not more than 1 month.
- (fa) the construction, alteration or removal of any tent or marquee that has a floor area not exceeding 100 square metres if that tent or marquee is, or has been, for private use for a period of not more than 1 month.
- (fb) the construction, alteration, or removal of any tent or marquee that has a floor area not exceeding 100 square metres if that tent or marquee is to be, or has been, used for public assembly for a period of not more than 1 month.
- (g) the construction or alteration of any platform, bridge, or the like from which it is not possible for a person to fall more than 1 metre even if it collapses.
- (ga) the construction or alteration of any platform, bridge, or the like from which it is not possible for a person to fall more than 1.5 metres even if it collapses.
- (gb) the construction, installation, replacement, or alteration of any plinth or similar foundation that is or has been—
 - (i) used for supporting mechanical plant, a tank, equipment, machinery, or any similar item; and
 - (ii) designed by a chartered professional engineer:
- (gc) the construction, installation, replacement, alteration, or removal of a stall, booth, compartment, or similar structure that—
 - (i) does not exceed 100 square metres in floor area; and
 - (ii) is, or has been, for use at a fair, exhibition, or market for not more than 1 month.
- (h) the construction or alteration of any temporary storage stack of goods or materials.
- (i) building work in connection with any detached building (except a building that is required to be licensed in terms of the Hazardous Substances and New Organisms Act 1996 or a building closer than its own height to any residential accommodation or to any legal boundary) that—
 - (i) houses fixed plant or machinery, the only normal visits to which are intermittent visits for routine inspection and maintenance of that plant or machinery; or
 - (ii) into which, or into the immediate vicinity of which, people cannot or do not normally go; or
 - (iii) is used only by people engaged in the construction or maintenance of another building for which a building consent is required; or Building Act 2004: Guide to exemptions from building consent requirements
 - (iv) does not exceed 1 storey, does not exceed 10 square metres in floor area, and does not contain sanitary facilities or facilities for the storage of potable water, but may contain sleeping accommodation (without cooking facilities) if the detached building is used in connection with a dwelling.
- (j) building work in connection with the closing in of an existing veranda, patio, or the like so as to provide an enclosed porch, conservatory, or the like with a floor area not exceeding 5 square metres.

- (ja) the construction, alteration, or removal of any fabric, glass, or metal awning on any building where that porch or verandah —
 - (i) is on the ground or first storey level; and
 - (ii) does not exceed 15 square metres in size.
- (jab) the construction, alteration, or removal of any fabric, glass, or metal awning on any building if the awning—
 - (i) is on the ground or first storey level; and
 - (ii) does not exceed 20 square metres in size.
- (jb) the construction, alteration, or removal of a pergola.
- (jc) the construction, alteration, or removal of a porch or verandah on any building where that porch or verandah—
 - (i) is on the ground or first storey level; and
 - (ii) is over a deck or a patio; and
 - (iii) does not exceed 15 square metres in size.
- (jd) the construction, alteration, or removal of a porch or verandah on any building, if the porch or verandah—
 - (i) is on the ground or first storey level; and
 - (ii) is over a deck or a patio; and
 - (ii) does not exceed 20 square metres in size.
- (je) the construction, installation, replacement, alteration, or removal of any shade sail made of fabric or other similar lightweight material, and any associated structural support, if the shade sail—
 - (i) does not exceed 50 square metres in size; and
 - (ii) is not closer than 1 metre to any legal boundary; and
 - (iii) is on the ground level, or, if on a building, on the ground or first-storey level of the building:
- (jf) the construction, installation, replacement, alteration, or removal of a carport that does not exceed 20 square metres in size and is on the ground level:
- (jg) the installation of thermal insulation in an existing building other than in—
 - (i) an external wall of the building; or
 - (ii) an internal wall of the building that is a fire separation wall (also known as a firewall):
- (jh) the making of a penetration no greater than 30 centimetres in diameter to enable the passage of pipes, cables, ducts, wires, hoses, and the like through any existing building and any associated building work, such as weatherproofing, fireproofing, or sealing the penetration:
- (ji) the construction, installation, replacement, or alteration of playground equipment, if—
 - (i) the work is for a government department, Crown entity, licensed early childhood centre, or territorial or regional authority, and the playground equipment has been designed by a chartered professional engineer; or
 - (ii) the playground equipment is for use by a single household and no part of the equipment exceeds 3 metres in height above the supporting ground level.
- (k) any other building work in respect of which the territorial authority (or, as the case requires, the regional authority) considers that a building consent is not necessary for the purposes of this Act because that building work—
 - (i) is unlikely to be carried out otherwise than in accordance with the building code; or
 - (ii) if carried out otherwise than in accordance with the building code, is unlikely to endanger people or any building, whether on the same land or on other property.

- (l) the demolition of all or part of a damaged building that is detached (stand-alone) and is no more than 3 storeys high:
- (m) the repair or replacement of all or part of a damaged outbuilding, if—
 - (i) the repair or replacement is made within the same area that the outbuilding or the original outbuilding (as the case may require) occupied; and
 - (ii) in the case of any replacement, the replacement is made with a comparable outbuilding or part of an outbuilding:
- (n) the removal of any—
 - (i) sign and any structural support of the sign; or
 - (ii) retaining wall; or
 - (iii) plinth or similar foundation; or
 - (iv) playground equipment.

BUILDING AMENDMENT BILL NO 3



The chairperson of the committee is inviting public submissions on the Building Amendment Bill No 3.

The closing date for submission is Friday 4 March 2011.

The purpose of this bill is to provide for the regulation of building work, a licensing regime for builders and performance standards buildings, and to promote accountability from those responsible for ensuring building work complies with the building code.

The bill is available for download from the Related Documents panel. Print copies can be ordered online from Bennetts Government Bookshop.

The committee requires two copies of each submission if made in writing. Those wishing to include any information of a private or personal nature in a submission should first discuss this with the clerk of the committee, as submissions are usually released to the public by the committee. Those wishing to appear before the committee to speak to their submissions should state this clearly and provide a daytime telephone contact number. To assist with administration, please supply your postcode and an email address if you have one.

Further guidance on making a submission can be found from the Making a Submission to a Parliamentary Select Committee link in the Related Documents panel.

Refer to next article in this news sheet.



There is a booklet designed to help those writing a submission to a select committee to produce it in a form that is easily read and understood by members of the committee.

You can get this booklet in PDF format from the Downloads panel from www.parliament.nz/en-nz.

The booklet is 20 pages long and the contents page is included for your reference, along with the appendix suggested submission format.

Contents	Page
Getting started	5
What is a submission?	5
Calling for submissions	5
Public access to bills and other government publications	5
Preparing your submission	7
Online submissions	7
How to write a submission	7
Content of your submission	8
Writing a submission on a bill	9
Writing a submission for an inquiry	10
Layout and format of your submission	10
Sending your submission	10
Presenting oral submissions	12
Appearing before a committee	12
Before the meeting	12
At the meeting	12
After presentation of your submission	13
Your rights as a witness	13
Right of reply to allegations	14
About select committees	16
What is a select committee?	16
Subject committees	16
Other committees	17
Calling for evidence	17
Hearing of submissions	17
Status of submissions	18
Costs	18
Further information	19
Appendix: Suggested submission format	20

Appendix: Suggested submission format

Covering letter <i>Date</i>	<i>Page number</i>
Submission on the XXX Bill/Inquiry	
To the [name of Committee] Committee	
Personal details	
This submission is from (name of individual/organisation and address).	
I/we wish to appear before the committee to speak to my/our submission.	
I can be contacted at: (<i>List your daytime contact telephone number and email address or the name, address and contact telephone number and email address of the contact person for your organisation if different from above</i>).	
I/we wish that the following also appear in support of my/our submission: (<i>List names and positions in organisation</i>).	
Submission	
I/we support/oppose the intent of this bill because (<i>state reasons</i>). <i>If an organisation, give brief details of your organisation's aims, membership and structure and the people consulted in the preparation of the submission.</i>	
I/we wish to make the following comments (<i>general views on the inquiry</i>).	
Clause * (<i>if submitting on a bill</i>)	
I/we support/oppose this clause because (<i>state reasons</i>).	
Clause * (<i>if submitting on a bill</i>)	
Although I/we agree with the general intent of this clause, I/we feel that (<i>note changes you would like made and suggest new wording</i>).	
Specific comments (<i>if submitting on an inquiry</i>)	
I/we wish to raise the following matters under term of reference 1, term of reference 2, etc (<i>expand on your views and give reasons</i>).	
Recommendations	
(<i>List any further recommendations or conclusions you wish the committee to consider. You may wish to restate recommendations mentioned earlier.</i>)	

BUILDING ACT REVIEW RESULTS AND NEXT STEPS

What is happening as a result of the Building Act review?

A number of changes are to be made to the way building and construction is regulated, that will contribute to a more productive, efficient and accountable building and construction sector.

The Building Act 2004 and regulations will be amended to:

- Make it clearer who's accountable for what.
- Require a written contract for residential building projects above \$20,000, and other measures to support consumers.
- Make it quicker and easier to get a building consent for certain low-risk work provided other quality assurance measures are met.

- Exempt a broader range of minor work from needing a building consent.
- Clarify the Building Warrants of Fitness regime and repeal the requirement in the Act for code compliance certificates in relation to building work carried out before 2005 on public use buildings

In addition the Government is doing further work on:

- How to make the building consenting system more nationally consistent.
- Whether or not changes are needed to the way liability is allocated in negligence cases in the building and construction sector.

When will these changes happen?

These changes will be phased in over time.

- From 23 December Schedule 1 of the Building Act 2004 will be changed to allow more work to be done without a building consent.
- On 23 November 2010, the [Building Amendment Bill \(No 3\)](#) was introduced to Parliament. This Bill proposes changes to the Building Act 2004 to make accountabilities clearer, and provides for a risk-based building consent system.
- New consumer support measures, including the introduction of mandatory written contracts and disclosure statements, are expected to be considered by Parliament in 2011

Why are these changes necessary?

There has been a general improvement in building quality since the Building Act 2004 was introduced. However the Building Act review found that the current system is more costly than necessary and less efficient than it could be, and does not provide incentives to improve productivity.

The review found that while there are many people doing good work in the sector, where problems arise it is difficult for homeowners to hold those responsible for the problems to account.

The changes outlined here are intended to encourage those working in the sector to improve their skills and capability, to 'build right first time' and increase efficiency and productivity.

How was the Building Act review carried out?

The review was conducted by the Department of Building and Housing with input and advice from a Sector Reference Group. A discussion document was issued in February 2010 and more than 380 submissions were received.

The Department also consulted representatives of the building and construction sector, consumer groups and central and local government on specific issues.

ACCOUNTABILITY IN BUILDING AND CONSTRUCTION

What's happening?

The Building Act will be amended so that it's clearer to builders, designers, building consent authorities and consumers who's accountable for what.

New measures will also be introduced to make it easier for homeowners to hold builders to account.

The amendments to the Act will make it clear that:

- designers are accountable for ensuring that their plans, specifications and advice will meet the requirements of the Building Code

- builders are accountable for building to any approved plans and specifications, or if there are no approved plans or specifications then they are accountable for meeting the requirements of the Building Code
- owners of building work are accountable for getting any necessary approvals. If they change the plans or specifications, or do the building work themselves, then they are accountable for meeting the requirements of the Building Code.
- building consent authorities are accountable for checking that others are doing their part - including checking plans and specifications for Building Code compliance, checking at any prescribed inspection points that work is done in accordance with the plans and specifications, approving any critical variations and certifying that the work has been completed in accordance with the consent.

Why are these changes necessary?

The Building Act review found that the system is out of balance, with an unduly heavy reliance on building consent authorities to identify and correct inadequacies in building design and construction.

Building consent authorities are inclined to err on the side of caution, partly in response to the weathertightness crisis, and this has led to a level of checking and inspection that may be higher than necessary for low-risk work. This can cause delays and extra compliance costs.

The weathertightness crisis has also shown that it can be difficult for homeowners to hold those responsible for problems to account.

Can I have a say?

Yes, the proposed amendments to the Building Act will be considered by a parliamentary select committee which will call for submissions.

What about legal liability?

The Government will review whether there is a need for change to the joint and several legal liability framework as it applies in the building and construction sector. 'Joint and several' applies when someone, for example the owner of a leaky home, sues for liability in negligence.

It means that all the parties who have contributed to the specific problem with the building, by not doing their job properly, are legally obligated to meet the full cost of fixing the problem. This may include for example the council, the developer, architect, builder and sub-contractors. When more than one party has contributed to the problem, the full costs can be shared between the parties. In the event that one or more of the parties is unable to meet their share of the costs (for example if they have gone out of business) then their share must also be covered by those who can pay.

In practice in weathertightness cases, this has seen local authorities carrying between 40 and 70 percent of the total cost of settlements¹ It has also seen other parties being found liable for amounts that they perceive as out of proportion to their actions.

What's the problem with 'joint and several'?

Many of those who made submissions during the review expressed the view that the application of joint and several liability in weathertightness cases may be contributing to:

- building professionals and trades people seeking to protect themselves through measures such as limited liability companies and a reluctance to take on some types of work
- risk adverse behaviour by local authorities that is resulting in more inspections and greater-than-necessary compliance costs.

Some submissions also noted that any change would potentially leave homeowners more vulnerable, because if one party is unable to pay then the homeowner would be left 'out of pocket'.

Who will review this issue and when?

The Department of Building and Housing will involve external experts and other relevant Government agencies in the review of joint and several liability in the building and construction sector. It is due to be completed by March 2011.

CONSUMER SUPPORT

What's happening?

The Building Act 2004 will be amended to require a written contract between building contractors and consumers for all projects above \$20,000, together with more information disclosure, clearer obligations and new legal remedies.

What will the contract include?

Every contract will have to include the already-existing warranties in the Building Act that require building work to be fit for purpose, meet the Building Code and be undertaken with reasonable care and skill (among other requirements).

The contract will also have to include

- agreement to repair, replace or compensate for defects (provided there has not been misuse or negligent damage)
- the process that will be followed if a dispute arises
- details of what, if any surety or insurance backing is available to cover the cost of fixing any problems.

Who will have to sign a contract?

The person commissioning the building work and the building contractor, who could be an individual or a company. For example, the contracting party may be a designer who goes on to manage the building project, a building company, or an individual building practitioner.

What will the building contractor have to do to 'put things right'?

Building work is already covered by implied warranties that apply for up to 10 years, but the Act will be amended to include even stronger obligations on the building contractor to "put things right", in respect of defects that are notified by the consumer during the first 12 months after completion. During this first 12 months the building contractor normally will be expected to remedy any defects (or replace faulty material) - as a matter of routine. The onus will be on the contractor to fix the defect, or prove the request was unreasonable, rather than on the consumer.

Why establish a 12-month defect repair period?

Buildings and building work are not like other goods and services (such as appliances) because:

- the condition of a damaged building can deteriorate over time and this can lead to escalating repair costs;
- some types of damage can give rise to health or safety risks;
- litigation and disputes are more likely, the longer a matter (relating to defective building work) is left unaddressed.

The weathertightness crisis has made it clear that early detection and repair of defective building work is critically important. The purpose of establishing a 12-month defect repair period is to:

- help to ensure that poor performing building contractors, who are not willing to stand behind their work, do not have a competitive advantage;

- motivate building contractors to “build right first time”;
- give consumers a strong incentive to identify any problems, and alert the building contractor, without delay.

At the same time, consumers will get more information about what maintenance they need to carry out.

What information will the building contractor have to provide?

The building contractor will have to give the consumer information before the contract is signed about the skills, qualifications and license status of those who will do the work and any publicly-available information about any disputes (for example the results of any court judgments). They will also have to disclose what, if any, surety or insurance backing they have, to cover the cost of fixing any faults.

How will subsequent owners be protected?

Critical information will be available on the Land Information Memorandum, including:

- identity of the principal building contractor; and
- details of any guarantee or insurance which has been purchased for the building.

Why are these changes necessary?

Many New Zealanders only rarely commission building work, and have limited knowledge of how best to manage the risks involved.

These measures are intended to help New Zealanders who are building or renovating homes to hold builders to account and get any faults fixed more quickly and cheaply.

They are also intended to encourage builders to ‘build right first time’ because they will be clearly accountable for fixing their own mistakes, at their own cost.

Can I have a say?

Yes, the proposed amendments to the Building Act will be considered by a parliamentary select committee which will call for submissions.

PROPOSED CHANGES TO BUILDING CONTROLS

What’s happening?

The Building Act will be amended to more clearly set the framework for a stepped, risk-based building consent system where the amount of plan checking and inspection is aligned with the risk and complexity of the work, and the skills and capability of the people doing the work. This system will be ‘activated’ only once other quality assurance measures are in place (after mid-2012).

What will stepped consenting look like?

The key elements of the proposed stepped building consent system are:

1. a streamlined building consent process for some low-risk work (such as a free-standing garage or large rural shed) that simply checks that certain conditions are met (for example the work is undertaken by a licensed building practitioner) but involves no further inspections by building consent authorities
2. a simplified and more prescribed consenting process for certain simple residential building work at the lower-risk end of the spectrum (such as a simple single-storey house built using proven methods and design with low structural and weathertightness risks)

3. existing consent and inspection requirements for moderate- to high-risk residential building work, such as a multi-story house of complex design, and for lower-risk building work not involving a suitably qualified building practitioner
4. new building consent processes and requirements for commercial buildings, to provide for reliance on third-party (non-building consent authority) review and quality assurance processes as an alternative to the current consenting and inspection requirements provided certain conditions are met.

When will this system start?

Stepped consenting will be 'activated' once certain pre-conditions are met, to ensure building quality is not compromised. This will not happen until mid-2012 at the earliest.

What other measures need to be in place first?

The quality assurance measures that need to be in place include:

- greater awareness and understanding of the performance requirements of the Building Code and of how to comply with them
- a base of competent practitioners in the sector, the cornerstone of which is the Licensed Building Practitioners Scheme
- strengthened contracting requirements and related measures in the residential construction sector
- an effective monitoring regime.

What's happening to Section 363B of the Building Act?

Section 363B of the Building Act 2004 is being repealed.

There are other controls that better address risks to public health and safety from uncertified building work undertaken before 2005.

Section 363B required owners of public buildings where building work for which a building consent was required was undertaken between 1 July 1992 and 31 March 2005 to ensure they have a code compliance certificate, a certificate of acceptance (if the Council is unable or refuses to issue a code compliance certificate) or a certificate for public use (if the work has not been completed) by 31 March 2010.

What's happening to the Building Warrant of Fitness regime?

Amendments to the Building Act will clarify aspects of the Building Warrant of Fitness regime. This applies to buildings with certain systems critical to life and safety, for example sprinklers, fire alarms and lifts.

There is some lack of clarity about exactly what is covered and some inconsistency in the way requirements are interpreted and applied.

What's happening to the Code Compliance Certificate and Compliance Documents?

The terms 'Code Compliance Certificate' and 'Compliance Documents' will be changed as part of amending the Building Act, to reduce confusion.

A Code Compliance Certificate is issued when a building consent authority is satisfied that building work complies with the building consent. The name is to be changed to make it clear that this document is not an absolute guarantee that the work is Code compliant, but that it records that the process has been completed.

A Compliance Document describes one way, but not the only way, of achieving compliance with the Building Code. Feedback from the review suggested that people think they have no choice but

to follow the methods set out in a Compliance Document. The terms 'Acceptable Solution' and 'Verification Method' are preferred alternatives.

Can I have a say?

Yes. There will be opportunities for interested parties to comment on amendments to the Act and regulations as part of the legislative process.

NATIONALLY CONSISTENT SYSTEM

What's happening?

The Government is doing further work on how it could make the current administration of the building consent system more nationally consistent and efficient.

The Department of Building and Housing will involve local government in preparing a preferred approach for consideration by the end of March 2011.

What would a 'nationally consistent' system look like?

A nationally consistent system, supporting local delivery, would have the following attributes:

- accessible and nationally consistent building consent application requirements and processes for consumers
- consistent interpretation of national building performance requirements and associated building consent decision processes
- timely, responsive and predictable services for consumers
- efficient use of scarce specialist skills, capital and other resources
- administratively efficient and cost-effective system performance
- the ability to quickly and effectively implement and respond to changes in Building Code requirements, and associated building consent and other regulatory requirements
- effective use of local information on building performance and regulatory compliance to inform and modify national policies, building performance requirements and other regulatory settings
- seamless integration with resource management and local planning, and other related activities.

Why is more consistency necessary?

Currently 75 building consent authorities process around 70,000 consents per year, an average of less than 1,000 per authority. Based on data for 2008/09, 17 building consent authorities issued fewer than 500 consents, while nine issued more than 2000 consents.

The Building Act review looked at options for more regional or national back office support for local delivery, including using on-line systems. It found that the cost of consent production could be reduced by an estimated 40%, with nationwide savings of around \$250m over five years.

DESIGNING COMFORTABLE HOMES 2ND EDITION GUIDELINES ON THE USE OF GLASS MASS AND INSULATION FOR ENERGY EFFICIENCY



CONCRETE INDUSTRY CELEBRATES UPDATED HOUSE DESIGN GUIDE

The second edition of *Designing Comfortable Homes* has been launched by the Hon Maurice Williamson, Minister for Building and Construction.

“Good building design is key to improving the comfort and energy efficiency of our homes,” Mr Williamson said. “I applaud the concrete industry for its efforts in bringing this to the fore in the updated edition of *Designing Comfortable Homes*.”

The revised book, commissioned by the Cement and Concrete Association of New Zealand (CCANZ), with assistance from the Energy Efficiency and Conservation Authority (EECA), is a guide to the basic principles of passive solar design as a means to ensure homes stay cool in summer and warm in winter.

Along with general guidance on solar design considerations, *Designing Comfortable Homes* also provides data on the expected performance of homes based around three different combinations of glass, mass and insulation.

“The concrete industry believes the energy efficiency and thermal comfort afforded through passive solar design is crucial to enhancing New Zealand’s housing stock and the quality of all our lives,” says CCANZ chief executive Rob Gaimster.

“Our health, and that of our families, can be enhanced, while the impact of the monthly power bill can be lessened, through what is in essence a very simple concept – passive solar design.”

The first edition of *Designing Comfortable Homes* was published in 2001, and since that time it has become a staple of all book collections within architectural and design practices. However, with recent changes to the Energy Efficiency clause of the Building Code, and the development of NZS 4218, the thermal insulation standard, CCANZ decided it was time for this valuable resource to be updated.

“The premise of this book is that homes can be naturally warm in winter and cool in summer – provided appropriate combinations of glass, concrete’s thermal mass and insulation are used,” says Gaimster.

“Passive solar design principles are not only essential for good home design, but they are also easy to understand. We encourage architects, designers, builders and their clients to embrace these simple concepts in order to achieve much more comfortable and energy efficient homes.”

Alongside Mr Williamson, leading New Zealand architect and concrete advocate Ian Athfield also spoke at the launch, held at Mojo Coffee Central in Wellington on October 13. Hon Phil Heatley, Minister for Housing, and representatives from professions across the construction sector also attended the event.

Download *Designing Comfortable Homes* at www.ccanz.org.nz.

QUIZ ON ARTICLES IN THIS NEWS SHEET



1. The Building Act 2004 is undergoing a review. Submissions on the changes close on Friday _____ March 2011
 - a. 4th
 - b. 12th
 - c. 23rd

2. Submissions on the Building Act review are to be made to
 - a. Your local Council
 - b. Department of Building and Housing
 - c. Parliamentary Select Committee

3. Under the Building Act review, a written contract will be required for _____ building projects over \$20,000.00.
 - a. all
 - b. residential
 - c. commercial
 - d. minor

4. The Building Act review will make it clear that designers are accountable for ensuring that their plans, specifications and advice will meet the requirements of the Building Code.
 - a. True
 - b. False

5. Owners are accountable for getting all necessary approvals.
 - a. True
 - b. False

6. The Building Act review will require written contracts on all projects over \$20,000.00 with more information, disclosure, clearer obligations and new legal remedies.
 - a. True
 - b. False

7. The new legal remedies in 6 above may include for a 12 month defect period.
 - a. True
 - b. False

8. The Building Act review proposes a new building consent process for low risk, simple housing, moderate to high risk residential building and _____ buildings.
 - a. outbuildings
 - b. communal
 - c. commercial

9. The term code compliance certificate is proposed to be changed.
- True
 - False
10. The Department of Building and Housing will involve local government in preparing a preferred approach to a nationally consistent building consent processing system. This proposal will be reading for consideration by _____ 2011.
- February
 - March
 - October
11. Schedule 1 Building Act 2004 (exempt building work) was revised in 2010 and new exemptions came into effect on _____ December 2010.
- 1st
 - 23rd
 - 25th
12. The Department of Building and Housing has provided a 58 page guidance document on building work that does not require a building consent.
- True
 - False
13. Even though some building work does not require a building consent, an owner can elect to apply for a building consent for the work.
- True
 - False
14. Building work that is exempt from a building consent is also exempt from the requirements of the Resource Management Act 1991 and any other legislation.
- True
 - False
15. Does a barrier have to be fitted to a deck which is 1.5m above the surrounding ground?
- Yes
 - No
16. A building consent is not required for enclosing an existing porch or veranda up to _____m².
- 5m²
 - 10m²
 - 15m²
17. A building consent is not required for the construction, alteration or removal of a porch or veranda on any building and the porch is on the ground on first floor and is over a deck or patio and does not exceed _____m² in size.
- 5m²
 - 10m²
 - 15m²
 - 20m²

18. A building consent is required to fit insulation to a ceiling cavity.
 - a. True
 - b. False

19. A building consent is required to fit insulation to an exterior wall.
 - a. True
 - b. False

20. A building consent is required to fit insulation to an internal wall of a building that is a fire separation wall.
 - a. True
 - b. False

21. A building consent is required for the construction of a carport under 20m² in size.
 - a. True
 - b. False

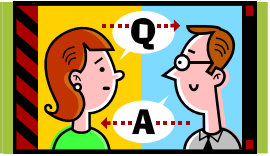
22. The replacement of an outbuilding with a comparable outbuilding does not require a building consent as long as the outbuilding is not increased in size.
 - a. True
 - b. False

23. A building consent is not required for the demolition of a damaged stand alone building.
 - a. True
 - b. False

24. The definition of an outbuilding is found under which document?
 - a. Building Act 2004
 - b. Clause A1 of the Building Code
 - c. NZS 3604, 1999

25. All building work must comply with the Building Code.
 - a. True
 - b. False

ANSWERS TO QUIZ



- | | |
|-------|-------|
| 1. a | 14. b |
| 2. c | 15. a |
| 3. a | 16. a |
| 4. a | 17. d |
| 5. a | 18. b |
| 6. a | 19. a |
| 7. a | 20. a |
| 8. c | 21. b |
| 9. a | 22. a |
| 10. b | 23. a |
| 11. b | 24. b |
| 12. a | 25. a |
| 13. a | |