

Building Amendment Act 2005

Public Act 2005 No 31
Date of assent 14 April 2005

Contents

		Page
1	Title	3
2	Commencement	3
3	Interpretation	3
4	Building: what it means and includes	5
5	New section 14 substituted	5
	14 Roles of building consent authorities, territorial authorities, and regional authorities in relation to dams	5
6	New section 25A inserted	6
	25A Compliance documents to be available on Ministry's website	6
7	Applicant for building consent liable to pay levy	7
8	Territorial authority may grant building consent subject to waivers or modifications of building code	7
9	Offence for person to carry out or supervise restricted building work if person is not licensed building practitioner	8
10	Territorial authority may issue certificate of acceptance in certain circumstances	8
11	New section 100 substituted	9
	100 Requirement for compliance schedule	9
12	Alterations to existing buildings	9
13	Code compliance requirements: change of use	10
14	New sections 116 to 116B substituted	10

	116 Code compliance requirements: extension of life	10
	116A Code compliance requirements: subdivision	10
	116B Offence to use building for use for which it is not safe or not sanitary, or if it has inadequate means of escape from fire	11
15	New section substituted	11
	165 Form and content of notice to fix	12
16	New section 191 substituted	12
	191 Chief executive may enter person's name in register of building consent authorities	13
17	Territorial authority must act as building consent authority within its district	14
18	Regional authority must gain accreditation and be registered	15
19	Regional authorities may impose fee or charge and recover costs	15
20	Chief executive must keep registers	15
21	Functions of Registrar	16
22	New sections 362A to 363C substituted	16
	362A Premises in respect of which duty arises under section 363	16
	363 Protecting safety of members of public using premises open to public or intended for public use	16
	363A Public use of premises may be allowed before issue of code compliance certificate in some circumstances	17
	363B Application of section 363 to building work where consent granted, or work begun, before 31 March 2005	18
	363C Section 363 does not apply to building work commenced before commencement of Building Act 1991	19
23	Offence for residential property developer to transfer household unit without code compliance certificate	19
24	Requirement to consult	19
25	Access to material incorporated by reference	20
26	Transitional provision for code compliance certificates and compliance schedules issued under former Act	21

The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Building Amendment Act 2005.
- (2) In this Act, the Building Act 2004 is called “the principal Act”.

2 Commencement

This Act comes into force on the day on which it receives the Royal assent.

3 Interpretation

- (1) Section 7 of the principal Act is amended by repealing paragraph (b) of the definition of **building work**, and substituting the following paragraphs:

“(b) includes sitework; and

“(c) includes design work (relating to building work) that is design work of a kind declared by the Governor-General by Order in Council to be restricted building work for the purposes of this Act; and

“(d) in Part 4, and the definition in this section of **supervise**, also includes design work (relating to building work) of a kind declared by the Governor-General by Order in Council to be building work for the purposes of Part 4”.

- (2) Section 7 of the principal Act is amended by repealing the definition of **restricted building work**, and substituting the following definition:

“**restricted building work**—

“(a) means building work that—

“(i) requires a building consent; and

“(ii) relates to an element of a building that is critical to the integrity of the building and the health and safety of its occupants; and

“(iii) is building work of a kind declared by the Governor-General by Order in Council to be a restricted building work for the purposes of this Act; and

“(b) includes building work on—

“(i) the building envelope of a building; or

“(ii) the structural support of a building; and

- “(c) includes design work (relating to building work) that is design work of a kind declared by the Governor-General by Order in Council to be restricted building work for the purposes of this Act”.
- (3) Section 7 of the principal Act is amended by repealing the definition of **territorial authority**, and substituting the following definition:
- “**territorial authority** means a city council or district council named in Part 2 of Schedule 2 of the Local Government Act 2002; and—
- “(a) in relation to land within the district of a territorial authority, or a building on or proposed to be built on any such land, means that territorial authority; and
- “(b) in relation to any part of a coastal marine area (within the meaning of the Resource Management Act 1991) that is not within the district of a territorial authority, or a building on or proposed to be built on any such part, means the territorial authority whose district is adjacent to that part”.
- (4) Section 11(h) of the principal Act is consequentially amended by inserting, after the words “territorial authorities”, the words “, regional authorities,”.
- (5) Sections 91(3)(a), 192(1)(c), 193(2), 197(2), 199(2)(a), 203(2)(d), and 252(1) of the principal Act are consequentially amended by inserting, after the words “territorial authority”, the words “or a regional authority”.
- (6) Section 166 of the principal Act is consequentially amended—
- (a) by inserting in subsection (1), after the word “authority”, the words “that is not a territorial authority or a regional authority” ; and
- (b) by inserting in subsection (2), after the word “authority” where it first occurs, the words “that is not a territorial authority” ; and
- (c) by omitting from subsection (2) the words “for the district in which the building work is situated”.
- (7) Section 237 of the principal Act is consequentially amended by repealing paragraph (c), and substituting the following paragraph:
- “(c) is not—

- “(i) the territorial authority for the district, or another territorial authority to which a function, duty, or power is transferred under section 233; or
 - “(ii) the regional authority for the region, or another regional authority to which a function, duty, or power is transferred under section 244”.
- (8) Section 416(1)(f) of the principal Act is consequentially amended by omitting the words “or territorial authorities”.
- (9) Schedule 1 of the principal Act is consequentially amended by inserting in paragraph (k), after the word “authority”, the words “(or, as the case requires, the regional authority)”.

4 Building: what it means and includes

Section 8(1) of the principal Act is amended by repealing paragraph (c), and substituting the following paragraphs:

- “(c) includes any 2 or more buildings that, on completion of building work, are intended to be managed as one building with a common use and a common set of ownership arrangements; and
- “(d) includes the non-moving parts of a cable car attached to or servicing a building; and
- “(e) after 30 March 2008, includes the moving parts of a cable car attached to or servicing a building.”

5 New section 14 substituted

The principal Act is amended by repealing section 14, and substituting the following section:

“14 Roles of building consent authorities, territorial authorities, and regional authorities in relation to dams

- “(1) The regional authority is responsible for performing functions under this Act relating to a building that is a dam.
- “(2) If a building includes a dam,—
 - “(a) the regional authority is responsible for performing functions under this Act relating to the dam; and
 - “(b) the building consent authority and territorial authority are responsible for performing functions under this Act relating to the parts of the building that are not a dam.
- “(3) For the purposes of subsection (1),—

- “(a) sections 31 to 39 apply (with all necessary modifications) as if every reference in them to a building consent authority or territorial authority included a reference to a regional authority; and
 - “(b) sections 40 to 116, 220 to 232, and 276 to 281 apply (with all necessary modifications) as if every reference in them to a building consent authority or territorial authority were a reference to a regional authority.
- “(4) For the purposes of subsection (2), sections 31 to 116, 220 to 232, and 276 to 281 apply (with all necessary modifications) as if every reference in them to a building consent authority or territorial authority included a reference to a regional authority.
- “(5) The building consent authority and territorial authority must do everything reasonably practicable to liaise with the regional authority in performing functions or duties, or exercising powers, in relation to a building that includes a dam.”

6 New section 25A inserted

The principal Act is amended by inserting, after section 25, the following section:

“25A Compliance documents to be available on Ministry’s website

- “(1) The chief executive must ensure that—
- “(a) promptly after a new compliance document is issued, a digital copy is publicly available on the Ministry’s website;
 - “(b) even after a compliance document has been amended or revoked, a digital copy of it in its original form continues to be publicly available on the website;
 - “(c) promptly after a compliance document is amended, there are publicly available on the Ministry’s website—
 - “(i) a digital copy of the amendment; and
 - “(ii) a digital copy of the document in its up-to-date form.
- “(2) The digital copy in its original form of a compliance document that has been amended—
- “(a) must indicate that it has been amended; and

- “(b) must give references, or provide links, to digital copies of all amendments; and
 - “(c) must give a reference, or provide a link, to the digital copy of the document in its up-to-date form.
- “(3) The digital copy in its original form of a compliance document that has been revoked—
- “(a) must indicate that it has been revoked; and
 - “(b) must state when it was revoked; and
 - “(c) if it has been replaced by another compliance document, must give a reference, or provide a link, to a digital copy of the replacement document in its up-to-date form.
- “(4) The digital copies must be available free of charge.”

7 Applicant for building consent liable to pay levy

- (1) Section 53 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:
- “(1) An applicant for a building consent is liable to pay to the chief executive a levy for, or in connection with, the performance of the chief executive’s functions under this Act if the building consent is granted.”
- (2) The principal Act is consequentially amended—
- (a) by omitting from sections 53(2)(b)(ii), 56, 59(2), and 64(1) the word “issued”, and substituting in each case the word “granted”;
 - (b) by omitting from section 58(1) the word “issue”, and substituting the word “grant”;
 - (c) by omitting from section 59(1) the word “issuing”, and substituting the word “granting”.

8 Territorial authority may grant building consent subject to waivers or modifications of building code

Section 67 of the principal Act is amended by repealing subsection (3), and substituting the following subsection:

- “(3) The territorial authority cannot grant an application for a building consent subject to a waiver or modification of the building code relating to access and facilities for people with disabilities.”

9 Offence for person to carry out or supervise restricted building work if person is not licensed building practitioner

- (1) Section 85 of the principal Act is amended by omitting the heading, and substituting the heading “Offences relating to carrying out or supervising restricted building work”.
- (2) Section 85 of the principal Act is amended by repealing subsection (1), and substituting the following subsections:
- “(1) A person who is not a licensed building practitioner commits an offence if he or she carries out restricted building work while not supervised by a licensed building practitioner whose licence authorises the practitioner to carry out or supervise the carrying out of restricted building work of that kind.
- “(1A) A licensed building practitioner commits an offence if he or she—
- “(a) carries out restricted building work of a kind that his or her licence does not authorise him or her to carry out or supervise the carrying out of; or
- “(b) supervises the carrying out of restricted building work of a kind that his or her licence does not authorise him or her to carry out or supervise the carrying out of.”

10 Territorial authority may issue certificate of acceptance in certain circumstances

Section 96 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

- “(1) A territorial authority may, on application, issue a certificate of acceptance for building work already done—
- “(a) if—
- “(i) the work was done by the owner or any predecessor in title of the owner; and
- “(ii) a building consent was required for the work but not obtained; or
- “(b) if section 42 (which relates to building work that had to be carried out urgently) applies; or
- “(c) if subsections (3) and (4) of section 91 (which apply if a building consent authority that is not a territorial authority or a regional authority is unable or refuses to issue a

code compliance certificate in relation to building work for which it granted a building consent) apply; or

- “(d) if—
- “(i) the work affects premises to which section 362A applies; and
 - “(ii) a building consent for the work was obtained before 31 March 2005; and
 - “(iii) the territorial authority is unable or refuses to issue a code compliance certificate for the work; and
 - “(iv) the application for the certificate of acceptance was made before 31 March 2010.”

11 New section 100 substituted

The principal Act is amended by repealing section 100, and substituting the following section:

“100 Requirement for compliance schedule

- “(1) A building not used wholly as a single household unit—
- “(a) requires a compliance schedule if—
 - “(i) it has a specified system; or
 - “(ii) it has a cable car attached to it or servicing it; and
 - “(b) requires the schedule for all specified systems it has and any cable car it has attached to it or servicing it.
- “(2) A building used wholly as a single household unit—
- “(a) requires a compliance schedule only if it has a cable car attached to it or servicing it; and
 - “(b) requires the schedule only for the cable car.
- “(3) Before 31 March 2008,—
- “(a) a building not used wholly as a single household unit—
 - “(i) requires a compliance schedule only if it has a specified system other than a cable car; and
 - “(ii) does not require a compliance schedule for any cable car attached to it or servicing it; and
 - “(b) a building used wholly as a single household unit does not require a compliance schedule.”

12 Alterations to existing buildings

Section 112(1)(a) of the principal Act is amended by omitting the words “and to the same extent as if it were a new building”.

13 Code compliance requirements: change of use

Section 115(b) of the principal Act is amended by repealing subparagraph (i) and substituting the following subparagraph:

- “(i) comply, as nearly as is reasonably practicable, with every provision of the building code that relates to either or both of the following matters:
- “(A) means of escape from fire, protection of other property, sanitary facilities, structural performance, and fire-rating performance;
 - “(B) access and facilities for people with disabilities (if this is a requirement under section 118); and”

14 New sections 116 to 116B substituted

- (1) The principal Act is amended by repealing section 116, and substituting the following sections:

“116 Code compliance requirements: extension of life

- “(1) The owner of a building with a specified intended life must not extend its life without the written consent of the territorial authority.
- “(2) This subsection applies to a building with a specified intended life if—
- “(a) under section 113(2), a building consent for its building or alteration was issued subject to the condition that it must be altered on or before the end of the specified intended life; or
 - “(b) under section 39(1) of the Building Act 1991, a building consent for its building or alteration was issued subject to the condition that it shall be altered on or before the end of the specified intended life.
- “(3) The territorial authority must not give its consent to the extension of the life of a building to which subsection (2) applies unless satisfied, on reasonable grounds, that the building—
- “(a) has been altered in accordance with the condition; and
 - “(b) complies with section 112.

“116A Code compliance requirements: subdivision

A territorial authority must not issue a certificate under section 224(f) of the Resource Management Act 1991 for the purpose of giving effect to a subdivision affecting a building or part

of a building unless satisfied, on reasonable grounds, that the building—

- “(a) will comply, as nearly as is reasonably practicable, with every provision of the building code that relates to one or more of the following matters:
 - “(i) means of escape from fire:
 - “(ii) access and facilities for persons with disabilities (if this is a requirement under section 118):
 - “(iii) protection of other property; and
- “(b) will continue to comply with the other provisions of the building code to at least the same extent as it did before the application for a subdivision was made.

“116B Offence to use building for use for which it is not safe or not sanitary, or if it has inadequate means of escape from fire

- “(1) No person may—
 - “(a) use a building, or knowingly permit another person to use a building, for a use for which the building is not safe or not sanitary; or
 - “(b) use a building, or knowingly permit another person to use a building, that has inadequate means of escape from fire.
- “(2) A person who fails to comply with subsection (1) commits an offence.
- “(3) A person who commits an offence under this section is liable to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence has continued.”
- (2) Section 224(f) of the Resource Management Act 1991 is consequentially amended by omitting the words “specified in section 116(3)”, and substituting the words “described in section 116A”.

15 New section substituted

- (1) The principal Act is amended by repealing section 165, and substituting the following section:

“165 Form and content of notice to fix

- “(1) The following provisions apply to a notice to fix:
- “(a) it must be in the prescribed form:
 - “(b) it must state a reasonable timeframe within which it must be complied with:
 - “(c) if it relates to building work that is being or has been carried out without a building consent, it may require the making of an application for a certificate of acceptance for the work:
 - “(d) if it requires building work to be carried out, it may require the making of an application for a building consent, or for an amendment to an existing building consent, for the work:
 - “(e) if it requires building work to be carried out, it must require the territorial authority, the regional authority, or both to be contacted when the work is completed:
 - “(f) if it relates to building work, it may direct that all or any building work cease immediately until the responsible authority is satisfied that the person carrying it out is able and willing to resume operations in compliance with this Act and the regulations.
- “(2) Nothing in subsection (1) limits or affects the generality of section 164.”
- (2) Form 13 in the Schedule of the Building (Forms) Regulations 2004 is consequentially amended by omitting from the first of the further particulars stated in it the words “the territorial authority for the district within which the building is situated”, and substituting the words “[*State whether the persons to whom the notice is given must contact the territorial authority for the district within which the building is situated, the regional authority for the region within which the building is situated, or both*]”.

16 New section 191 substituted

- (1) The principal Act is amended by repealing section 191, and substituting the following section:

“191 Chief executive may enter person’s name in register of building consent authorities

The chief executive may, on the application of a person made in accordance with section 194, enter the person’s name in the register of building consent authorities kept under section 273(1)(a).”

- (2) The principal Act is consequentially amended—
- (a) by omitting from sections 5(2)(c)(ii) and 11(f) the words “and regional authorities”:
 - (b) by omitting from sections 19(1) and 433(2)(b) the words “or, as the case may be, a regional authority”:
 - (c) by omitting from sections 192(1), 197(2)(a)(ii), 197(2)(b)(ii), and 203(2)(d)(ii) the words “appropriate register”, and substituting in each case the words “register of building consent authorities”:
 - (d) by omitting from section 193(1) the words “appropriate register may perform the functions of a building consent authority or, as the case may be, of a regional authority”, and substituting the words “register of building consent authorities may perform the functions of a building consent authority”:
 - (e) by omitting from section 196(1) the words “or regional authority whose name is entered in the appropriate register (registered person)”, and substituting the words “whose name is entered in the register of building consent authorities”:
 - (f) by omitting from section 196(2) the words “registered person who continues to meet those criteria is entitled to the continuation of the person’s”, and substituting the words “building consent authority that continues to meet those criteria is entitled to the continuation of its”:
 - (g) by omitting from sections 197(1), 200(1), 200(2)(a), 200(3)(a), 201(2)(a), 202(2), 203(1), 203(2)(a), 203(2)(b), 203(2)(c), and 203(4) the words “registered person” (in the case of sections 203(1) and 202(2), in each place where they occur), and substituting in each case the words “building consent authority”:
 - (h) by omitting from section 199(1) the words “or of a regional authority”:

- (i) by omitting from the heading to section 200 the words “registered persons”, and substituting the words “building consent authorities”:
- (j) by omitting from sections 196(2), 197(2)(a)(i), 197(2)(b)(i), 197(2)(b)(ii), 198(1), 198(2), 200(1)(a), 203(1)(a), 203(2)(d)(i), and 203(2)(d)(ii) the word “person’s” (in the case of sections 198(2) and 203(2)(d)(ii), in both places where it occurs), and substituting in each case the word “authority’s”:
- (k) by omitting from sections 197(2)(a)(i) and 197(2)(b) the word “person”, and substituting in each case the word “authority”:
- (l) by omitting from section 198(1) the words “A person”, and substituting the words “An authority”:
- (m) by omitting from section 198(3) the words “a person”, in both places where they occur, and substituting in each case the words “an authority”:
- (n) by omitting from section 249(a) the words “and accredited regional authorities”:
- (o) by omitting from sections 250, 254(3), 255(1), 391, and 392(1) the words “or a regional authority”:
- (p) by omitting from sections 254(2)(a), 254(2)(b), 392(3), 392(4)(a), and 392(4)(b) the words “or the regional authority”:
- (q) by omitting from sections 254(3)(b), 392(2)(b), and 392(2)(c) the words “or regional authority”:
- (r) by omitting from the heading to section 391 the words “or regional authorities”:
- (s) by omitting from the heading to section 392 the words “or regional authority”.

17 Territorial authority must act as building consent authority within its district

- (1) The heading to section 212 of the principal Act is amended by omitting the word “within”, and substituting the word “for”.
- (2) Section 212(1) of the principal Act is amended by inserting, after the word “district”, the words “, and for any coastal marine area (within the meaning of the Resource Management Act

1991) adjacent to its district that is not within the district of another territorial authority,”.

18 Regional authority must gain accreditation and be registered

Section 241 of the principal Act is amended by adding, as subsection (2), the following subsection:

“(2) Subsection (1)—

“(a) is subject to the regional authority’s power under section 244 to transfer any of its functions under this Act to another regional authority; and

“(b) does not apply to any function it transfers to another regional authority.”

19 Regional authorities may impose fee or charge and recover costs

(1) Section 243 of the principal Act is amended by adding to the heading the words “, and must collect levy”.

(2) Section 243 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

“(1) A regional authority—

“(a) may impose a fee or charge—

“(i) for issuing a project information memorandum under section 34; or

“(ii) for performing any other function or service under this Act; and

“(b) may recover its costs from the owner if it carries out building work under section 156; and

“(c) must collect the levy an applicant is liable to pay to the chief executive under section 53.”

20 Chief executive must keep registers

(1) Section 273(1)(b) of the principal Act is repealed.

(2) Sections 274(a)(ii) and 402(1)(t)(ii) of the principal Act are consequentially repealed.

21 Functions of Registrar

Section 311 of the principal Act is amended by repealing paragraphs (c) and (d), and substituting the following paragraphs:

- “(c) to help the Board to receive and investigate complaints under sections 315 and 316; and
- “(d) to provide other administrative support for the Board sufficient to enable the Board to perform its functions efficiently and effectively; and
- “(e) to perform any other function conferred on the Registrar by this Act or any other enactment.”

22 New sections 362A to 363C substituted

- (1) The principal Act is amended by repealing section 363, and substituting the following sections:

“362A Premises in respect of which duty arises under section 363

- “(1) This section applies to premises that—
 - “(a) are intended to be open to members of the public or are being used by members of the public; and
 - “(b) comprise all or part of a building.
- “(2) For the purposes of subsection (1), premises may be intended to be open to members of the public—
 - “(a) whether or not members of the public are charged for their use (or, as the case may be, whether or not it is intended that members of the public are to be charged for their use); and
 - “(b) whether or not members of the public will, regularly or from time to time, be excluded from them.

“363 Protecting safety of members of public using premises open to public or intended for public use

- “(1) A person who owns, occupies, or controls premises to which section 362A applies must not use, or permit the use of, any part of the premises that is affected by building work—
 - “(a) if—
 - “(i) a building consent is required for the work; but
 - “(ii) no building consent has been granted for it; or
 - “(b) if a building consent has been granted for the work, but—

- “(i) no code compliance certificate has been issued for the work; and
- “(ii) no certificate for public use has been issued under section 363A for the part; or
- “(c) if a building consent has been granted for the work, and a certificate for public use has been issued under section 363A for the part, but—
 - “(i) no code compliance certificate has been issued for the work; and
 - “(ii) the certificate for public use has been issued for the part subject to conditions that have not been complied with.
- “(2) For the purposes of subsection (1), a part of premises may be affected by building work—
 - “(a) whether or not the work has been completed; and
 - “(b) whether the work is being or has been done to or in, or involves or involved the building of,—
 - “(i) the part itself; or
 - “(ii) some other part of the building that the premises comprise or form part of.
- “(3) A person who fails to comply with subsection (1) commits an offence.
- “(4) A person who commits an offence under this section is liable to a fine not exceeding \$200,000 and, in the case of a continuing offence, to a further fine not exceeding \$20,000 for every day or part of a day during which the offence has continued.

“363A Public use of premises may be allowed before issue of code compliance certificate in some circumstances

- “(1) A person who owns, occupies, or controls premises to which section 362A applies may apply in the prescribed form to the territorial authority for a certificate for public use for the premises or a part of the premises if—
 - “(a) a building consent has been granted for building work affecting the premises or part; and
 - “(b) no code compliance certificate has been issued for the work.
- “(2) The territorial authority may issue a certificate for public use for the premises or part if, and only if, satisfied on reasonable

grounds that members of the public can use the premises or part (as the case may be) safely.

- “(3) A certificate for public use—
 - “(a) must be in the prescribed form; and
 - “(b) may be issued subject to conditions.
- “(4) The territorial authority must decide whether to issue the certificate—
 - “(a) within 20 working days after the authority receives an application for it; or
 - “(b) within any further period agreed between the applicant and the authority.
- “(5) Within the period stated in subsection (4), the territorial authority may require the applicant to give it further reasonable information in respect of the application; and if it does so, the period is suspended until it receives the information.
- “(6) Nothing in this section relieves the owner of a building from the obligation imposed by section 92(1) to apply to a building consent authority for a code compliance certificate after all building work to be carried out under a building consent granted to the owner is completed.

“363B Application of section 363 to building work where consent granted, or work begun, before 31 March 2005

- “(1) This section applies to building work if it affects premises to which section 362A applies, and—
 - “(a) a building consent was granted for it before 31 March 2005; or
 - “(b) it began before 31 March 2005.
- “(2) Before 31 March 2010, section 363(1) does not apply to building work to which this section applies.
- “(3) On and after 31 March 2010, section 363(1) does not apply to building work to which this section applies if a certificate of acceptance has been issued for it under section 96(1) before 31 March 2010.

“363C Section 363 does not apply to building work commenced before commencement of Building Act 1991

- “(1) Section 363(1) does not apply to building work commenced before 1 July 1992.
- “(2) Subsection (1) applies whether the work was completed before, on, or after 1 July 1992.”
- (2) Section 177(c) is consequentially amended by inserting, after subparagraph (iii), the following subparagraph:
- “(iiia) issue or refuse to issue a certificate for public use under section 363A; or”.

23 Offence for residential property developer to transfer household unit without code compliance certificate

Section 364 of the principal Act is amended by adding the following subsection:

- “(4) Subsection (1) does not apply if the contract for the sale and purchase of the household unit was entered into before 30 November 2004.”

24 Requirement to consult

- (1) Section 409(2) of the principal Act is amended by repealing—
- (a) paragraph (c); and
 - (b) paragraph (d)(iii).
- (2) Section 409 of the principal Act is amended by inserting, after subsection (2), the following subsection:
- “(2A) Before doing any of the things referred to in subsection (1), the Minister or, as the case may be, the chief executive—
- “(a) may make copies of the proposed material available in any other way that he or she considers appropriate in the circumstances (for example, on an Internet website); and
 - “(b) must, if paragraph (a) applies, give notice in the *Gazette* stating that the proposed material is available in other ways and details of where or how it can be accessed or obtained.”
- (3) Section 409(3) of the principal Act is amended by omitting the expression “subsection (2)”, and substituting the words “subsections (2) and (2A)”.

25 Access to material incorporated by reference

Section 410 of the principal Act is amended by repealing subsection (1), and substituting the following subsections:

- “(1) The chief executive—
- “(a) must make the material referred to in subsection (2) (material) available for inspection during working hours free of charge at the Ministry’s office in Wellington; and
 - “(b) must make copies of the material available for purchase at a reasonable price at all of the Ministry’s offices; and
 - “(c) must make so much of the material as relates to the following matters available for inspection during working hours, free of charge, at all of the Ministry’s offices:
 - “(i) the use of timber, concrete, concrete masonry, glass, and plaster coating in the construction of buildings; and
 - “(ii) the design of buildings using timber, concrete, concrete masonry, and steel; and
 - “(iii) plumbing installation; and
 - “(iv) access for persons with disabilities; and
 - “(v) energy efficiency in buildings; and
 - “(d) may make copies of the material available in any other way that the chief executive considers appropriate in the circumstances (for example, on an Internet website); and
 - “(e) must give notice in the *Gazette* stating that—
 - “(i) the material is incorporated in an instrument and the date on which the instrument was made; and
 - “(ii) the material is available for inspection during working hours, free of charge, at the Ministry’s office in Wellington and the location of that office; and
 - “(iii) copies of the material can be purchased at all of the Ministry’s offices and the location of those offices; and
 - “(iv) the material referred to in paragraph (c) is available for inspection during working hours, free of charge, at all of the Ministry’s offices and the location of those offices; and

“(v) if copies of the material are made available under paragraph (d), the material is available in other ways and details of where or how it can be accessed or obtained.

“(1A) Subsection (1)(c) does not apply to any material that relates only to product standards or product testing standards.”

26 Transitional provision for code compliance certificates and compliance schedules issued under former Act

Section 438 of the principal Act is amended by repealing subsections (2) and (3), and substituting the following subsections:

“(2) Before 30 November 2009,—

“(a) the reference in sections 103(1)(c) and 108(7) to licensed building practitioners, in relation to a territorial authority, includes a reference to independently qualified people accepted by the authority as being qualified to carry out the inspection, maintenance, and reporting procedures required for a specified system stated in a compliance schedule:

“(b) the references in sections 108(3)(c), 108(3)(d), 108(7), 109, and 110(a) to a licensed building practitioner, in relation to a territorial authority, include references to an independently qualified person accepted by the authority as being qualified to carry out the inspection, maintenance, and reporting procedures required for a specified system stated in a compliance schedule.

“(3) A person who immediately before the commencement of this section was accepted by a territorial authority as being qualified to carry out the inspection, maintenance, and reporting procedures required for a specified system stated in a compliance schedule continues to be accepted until the authority withdraws its acceptance.

“(4) Before 30 November 2009, a territorial authority—

“(a) may accept any person as being qualified to carry out the inspection, maintenance, and reporting procedures required for a specified system stated in a compliance schedule:

- “(b) may withdraw its acceptance of any person as being qualified to carry out the inspection, maintenance, and reporting procedures required for a specified system stated in a compliance schedule (whether the acceptance occurred before or after the commencement of this section).
- “(5) If not earlier withdrawn, a territorial authority’s acceptance of a person as being qualified to carry out the inspection, maintenance, and reporting procedures required for a specified system stated in a compliance schedule expires on 30 November 2009.”

Legislative history

12 April 2005

Divided from Legislation (Incorporation by Reference) Bill (Bill 250-1), third reading
