



Building Amendment Act 2010

Public Act 2010 No 50
Date of assent 6 July 2010
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Building Amendment Act 2010.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act amended

This Act amends the Building Act 2004.

4 New section 177 substituted

Section 177 is repealed and the following section substituted:

“177 Application for determination

- “(1) A party may apply to the chief executive for a determination in relation to either or both of the following:
- “(a) whether particular matters comply with the building code:
 - “(b) the exercise, failure or refusal to exercise, or proposed or purported exercise by an authority in subsection (2), (3), or (4) of a power of decision to which this paragraph applies by virtue of that subsection.
- “(2) Subsection (1)(b) applies to any power of decision of a building consent authority in respect of all or any of the following:
- “(a) a building consent:
 - “(b) an extension under section 52(b) of the period during which building work must be commenced before a building consent lapses:
 - “(c) an extension under section 93(2)(b)(ii) of the period during which the authority must decide whether to issue a code compliance certificate:
 - “(d) a code compliance certificate:
 - “(e) a compliance schedule:
 - “(f) a notice to fix.
- “(3) Subsection (1)(b) applies to any power of decision of a territorial authority in respect of, or under, all or any of the following:
- “(a) any waiver or modification of the building code under section 67:
 - “(b) a certificate of acceptance under section 96:
 - “(c) an exemption from building consent requirements under paragraph (k) of Schedule 1:
 - “(d) an amendment to a compliance schedule under section 106, 107, or 109:
 - “(e) a notice to fix:
 - “(f) sections 112, 113, 115, and 116 (which relate to alterations to, or changes in the use of, a building) and 124

and 129 (which relate to dangerous, earthquake-prone, and insanitary buildings):

“(g) a certificate for public use under section 363A:

“(h) a certificate under section 224(f) of the Resource Management Act 1991.

“(4) Subsection (1)(b) applies to any power of decision under this Act of a regional authority in respect of a dam.

“(5) Nothing in this section limits or affects section 70(4) or 446(1)(c).”

5 Appeals to District Court

(1) Section 208(1) is amended by inserting the following paragraph after paragraph (a):

“(aa) a written direction given by the chief executive under section 190 to the applicant or another party, and requiring that person to meet some or all of the other party’s costs in respect of, or in respect of an application for, a determination against which all or any of the persons referred to in subsection (2) have made an appeal under paragraph (a) (whether or not that appeal has been determined); or”.

(2) Section 208(2)(a) is amended by inserting “or (aa)” after “subsection (1)(a)”.

6 Procedure for commencing appeal

Section 209(1)(a) is amended by inserting the following subparagraph after subparagraph (i):

“(ia) in the case of an appeal under section 208(1)(aa), the date of the written direction given by the chief executive under section 190; or”.

7 Steps after appeal is commenced

Section 210(1)(b) is amended by inserting “or (aa)” after “section 208(1)(a)”.

8 Powers of District Court on appeal

(1) Section 211(1)(a) is amended by inserting “, direction,” after “determination”.

- (2) Section 211(1)(c) is amended by omitting “make any determination or decision that the chief executive could have made” and substituting “make or give any determination, direction, or decision that the chief executive could have made or given”.
- (3) Section 211(2) is amended by inserting “, direction,” after “determination”.
- (4) Section 211(3) is amended by inserting “, direction,” after “determination” in the first place where it appears.

9 Suspension or revocation of product certificate

Section 271(2)(b) is amended by omitting “product certification body” and substituting “proprietor of the building method or product”.

10 Application of Regulations (Disallowance) Act 1989 to material incorporated by reference

Section 412(2) is amended by inserting “(other than a compliance document)” after “an instrument made or issued under this Act”.

11 Schedule 1 amended

- (1) Paragraph (a) of Schedule 1 is amended by repealing subparagraph (iv) and substituting the following subparagraph:
 - “(iv) repair or replacement of a water storage heater connected to a solid-fuel heater or other supplementary heat exchanger (other than—
 - “(A) repair of an open-vented water storage heater using the same pipework; or
 - “(B) replacement of an open-vented water storage heater with a comparable heater using the same pipework):”.
 - (2) Paragraph (ad) of Schedule 1 is amended by adding “and that is not repair or replacement to which paragraph (a)(iv) (other than subparagraph (A) or (B)) applies”.
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Legislative history

29 June 2010

Divided from Statutes Amendment Bill by
committee of the whole House, third reading

6 July 2010

Royal assent

This Act is administered by the Department of Building and Housing.
