

**Reprint
as at 1 January 2015**



Building Amendment Act 2013

Public Act 2013 No 100
Date of assent 27 November 2013
Commencement see section 2

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry of Business, Innovation, and Employment.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Building Amendment Act 2013.

2 Commencement

- (1) Except for sections 4(4), 5(3), 20, 48, 56 to 60, 66, and 67(3), this Act comes into force on the day after the date on which it receives the Royal assent.
- (2) Sections 4(4), 5(3), 20, 48, 56 to 60, 66, and 67(3) come into force on a date appointed by the Governor-General by Order in Council.

Section 2(2): sections 4(4), 5(3), 20, 48, 56 to 60, 66, and 67(3) brought into force, on 1 January 2015, by the Building Amendment Act 2013 Commencement Order 2014 (LI 2014/360).

3 Principal Act amended

This Act amends the Building Act 2004.

Part 1
Amendments to principal Act

4 Interpretation

- (1) Section 7 is amended by repealing the definition of **acceptable solution** and substituting the following definition:
“**acceptable solution** means an acceptable solution issued under section 22(1)”.

- (2) The definition of **appurtenant structure** in section 7 is amended by omitting “proper functioning of the dam” and substituting “safe functioning of the dam as a structure for retaining water or other fluid”.
- (3) Section 7 is amended by repealing—
 - (a) the definition of **compliance document**; and
 - (b) the definition of **enforcement officer**.
- (4) Section 7 is amended by repealing the definition of **residential property developer**.
- (5) Section 7 is amended by repealing the definition of **verification method** and substituting the following definition:
“**verification method** means a verification method issued under section 22(1)”.
- (6) Section 7 is amended by inserting the following definitions in their appropriate alphabetical order:
“**classifiable dam** has the meaning given to it by regulations made under this Act
“**crest**, in relation to a dam, means the uppermost surface of a dam, not taking into account any camber allowed for settlement, or any curbs, parapets, guard rails, or other structures that are not part of the water-retaining structure; and for the avoidance of doubt, any freeboard is part of the water-retaining structure for the purposes of this definition
“**high potential impact dam** means a dam that has been classified under section 134B as having high potential impact
“**low potential impact dam** means a dam that has been classified under section 134B as having low potential impact
“**medium potential impact dam** means a dam that has been classified under section 134B as having medium potential impact
“**outbuilding** has the same meaning as in the building code
“**referable dam** has the meaning given to it by regulations made under this Act”.
- (7) Section 7 is amended by repealing the definition of **large dam** and substituting the following definition:

“**large dam** means a dam that has a height of 4 or more metres and holds 20 000 or more cubic metres volume of water or other fluid”.

5 Role of chief executive

- (1) Section 11(m) is amended by repealing subparagraph (ii) and substituting the following subparagraphs:

“(ii) in cases where 1 or more territorial authorities are unwilling or unable to take enforcement action; or

“(iii) to enforce duties or obligations under Part 4A; and”.

- (2) Section 11 is amended by inserting the following paragraph after paragraph (p):

“(pa) issues infringement notices under section 372 and under section 371B authorises persons to issue infringement notices; and”.

- (3) Section 11 is amended by inserting the following paragraph before paragraph (q):

“(pb) may provide dispute resolution services under section 175A; and”.

6 Outline of responsibilities under this Act

- (1) Section 14A is amended by omitting “14F” and substituting “14G”.

- (2) Section 14A(c) is amended by adding “and are not intended to add to the existing responsibilities of the parties”.

7 New section 14G inserted

The following section is inserted after section 14F:

“14G Responsibilities of product manufacturer or supplier

- “(1) In subsection (2), **product manufacturer or supplier** means a person who manufactures or supplies a building product and who states that the product will, if installed in accordance with the technical data, plans, specifications, and advice prescribed by the manufacturer, comply with the relevant provisions of the building code.

- “(2) A product manufacturer or supplier is responsible for ensuring that the product will, if installed in accordance with the technical data, plans, specifications, and advice prescribed by

the manufacturer, comply with the relevant provisions of the building code.”

8 How compliance with building code is established

Section 19(1) is amended by repealing paragraph (b) and substituting the following paragraphs:

- “(b) compliance with an acceptable solution:
- “(ba) compliance with a verification method:”.

9 What happens if regulations specifying that there is only 1 means of complying with building code are made or not made

Section 21(2) is amended by omitting “a compliance document” and substituting “an acceptable solution or a verification method”.

10 New heading above section 22 substituted

The heading above section 22 is repealed and the following heading substituted:

“Acceptable solution or verification method”.

11 New sections 22 to 25A substituted

Sections 22 to 25A are repealed and the following sections substituted:

“22 Acceptable solution or verification method for use in establishing compliance with building code

- “(1) The chief executive may, by notice in the *Gazette*, issue an acceptable solution or a verification method for use in establishing compliance with the building code.
- “(2) A person who complies with an acceptable solution or a verification method must, for the purposes of this Act, be treated as having complied with the provisions of the building code to which that acceptable solution or verification method relates.
- “(3) Subsection (2) is subject to any regulations referred to in section 20.

“23 Effect of acceptable solution or verification method

A person may comply with an acceptable solution or a verification method in order to comply with the provisions of the building code to which that acceptable solution or verification method relates, but doing so is not the only means of complying with those provisions.

“24 Chief executive may amend or revoke acceptable solution or verification method

- “(1) The chief executive may, by notice in the *Gazette*, amend or revoke an acceptable solution or a verification method at any time.
- “(2) An amendment or a revocation under subsection (1) does not have retrospective effect.

“25 Content of acceptable solution or verification method

- “(1) An acceptable solution or a verification method must state—
- “(a) the date on which it comes into force; and
 - “(b) whether the acceptable solution or verification method, or parts of it, applies to building work for which a building consent has been issued before the date on which the acceptable solution or verification method comes into force.
- “(2) An acceptable solution or a verification method must not contain a provision that—
- “(a) relates to contractual or commercial requirements; or
 - “(b) relates to regulatory approvals, dispensations, or waivers; or
 - “(c) is inconsistent with this Act or the regulations.
- “(3) Material may be incorporated by reference in an acceptable solution or a verification method in accordance with sections 405 to 413.

“25A Acceptable solutions and verification methods to be available on Ministry’s Internet site

The chief executive must ensure that—

- “(a) promptly after a new acceptable solution or verification method is issued, a digital copy is publicly available on the Ministry’s Internet site:
- “(b) even after an acceptable solution or a verification method has been amended or revoked, a digital copy of it in its original form continues to be publicly available on the Ministry’s Internet site:
- “(c) promptly after an acceptable solution or a verification method is amended, there are publicly available on the Ministry’s Internet site—
 - “(i) a digital copy of the amendment; and
 - “(ii) a digital copy of the acceptable solution or verification method in its up-to-date form.”

12 New heading above section 29 substituted

The heading above section 29 is repealed and the following heading substituted:

“Procedural requirements for acceptable solutions, verification methods, warnings, and bans”.

13 Procedural requirements for compliance documents, warnings, and bans

- (1) The heading to section 29 is amended by omitting “**compliance documents**” and substituting “**acceptable solutions, verification methods**”.
- (2) Section 29(1)(a) is amended by omitting “a compliance document” and substituting “an acceptable solution or a verification method”.
- (3) Section 29(1)(b) is amended by omitting “a compliance document” and substituting “an acceptable solution or a verification method”.
- (4) Section 29(2)(a) is amended by omitting “document” and substituting “acceptable solution, verification method”.
- (5) Section 29(4) is amended by omitting “document” in each place where it appears and substituting in each case “acceptable solution, verification method”.

- (6) Section 29(5)(a) is amended by omitting “document” and substituting “acceptable solution, verification method.”.
- (7) Section 29(5)(b) to (d) are amended by omitting “document” in each place where it appears and substituting in each case “acceptable solution, verification method”.

14 Procedural requirements for urgent compliance documents, warnings, and bans

- (1) The heading to section 30 is amended by omitting “**compliance documents**” and substituting “**acceptable solutions, verification methods**”.
- (2) Section 30(1) and (2) are amended by omitting “document” in each place where it appears and substituting “acceptable solution, verification method”.

15 Applications for national multiple-use approval relating to design work that is restricted building work

Section 30C is amended by repealing subsection (1) and substituting the following subsection:

- “(1) This section applies if an application for a national multiple-use approval is accompanied by plans and specifications that contain design work (relating to building work) that is restricted building work.”

16 Buildings not to be constructed, altered, demolished, or removed without consent

Section 40(3) is amended by omitting “\$100,000” and substituting “\$200,000”.

17 When building consent is not required

- (1) Section 41(1) is amended by repealing paragraph (b) and substituting the following paragraph:
 - “(b) any building work described in Schedule 1 for which a building consent is not required (*see* section 42A); or”.
- (2) Section 41 is amended by repealing subsection (2) and substituting the following subsection:
 - “(2) The Governor-General may, by Order in Council, amend Schedule 1 by—

- “(a) adding any building work or class of building work to Schedule 1 as being building work for which a building consent is not required:
- “(b) extending or clarifying the scope of any building work or class of building work listed in Schedule 1 as building work for which a building consent is not required:
- “(c) restating, for the purpose of clarity, any building work or class of building work listed in Schedule 1.”

18 New section 42A inserted

The following section is inserted after section 42:

“42A Building work for which building consent is not required under Schedule 1

- “(1) Despite section 40, subject to the conditions set out in subsection (2) and whether or not a building consent would otherwise have been required, a building consent is not required for building work in the following categories:
 - “(a) building work described in Part 1 of Schedule 1; or
 - “(b) building work described in Part 2 of Schedule 1 that is carried out by an authorised person (*see* subsection (3)); or
 - “(c) building work described in Part 3 of Schedule 1 if the design of the building work has been carried out or reviewed by a chartered professional engineer and the building work has been carried out in accordance with that design.
- “(2) Subsection (1) is subject to the following conditions:
 - “(a) the building work complies with the building code to the extent required by this Act:
 - “(b) after the building work is completed, the building,—
 - “(i) if it complied with the building code immediately before the building work began, continues to comply with the building code; or
 - “(ii) if it did not comply with the building code immediately before the building work began, continues to comply at least to the same extent as it did then comply:
 - “(c) the building work does not breach any other enactment:

“(d) the building to which the building work relates is not a building that is required to be licensed under the Hazardous Substances and New Organisms Act 1996.

“(3) In subsection (1)(b), **authorised person** means a person who is authorised under the Plumbers, Gasfitters, and Drainlayers Act 2006 to do the work, except for a person who is authorised under section 15, 16, 19, or 25 of that Act.”

19 How to apply for building consent

(1) Section 45(2) is amended by omitting “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 substituting “restricted building work”.

(2) Section 45(3) is amended by omitting “memorandum” and substituting “certificate of work”.

(3) Section 45 is amended by inserting the following subsection after subsection (3):

“(3A) A certificate of work provided under subsection (3) does not, of itself,—

“(a) create any liability in relation to any matter to which the certificate of work relates; or

“(b) give rise to any civil liability to the owner that would not otherwise exist if the licensed building practitioner were not required to provide the certificate of work.”

20 Licensed building practitioner to provide record of work in respect of restricted building work

Section 88(5) is amended by omitting “397(c)” and substituting “362I(1)(c)”.

21 Application for code compliance certificate

(1) Section 92 is amended by repealing subsection (2A) and substituting the following subsection:

“(2A) If applicable, the owner must include with the application any records of work provided by licensed building practitioners under section 88(1).”

(2) Section 92 is amended by repealing subsection (3).

22 Content of compliance schedule

Section 103(2)(b)(ii) is amended by omitting “a compliance document” and substituting “an acceptable solution or a verification method issued under section 22”.

23 Alterations to existing buildings

Section 112 is amended by repealing subsection (1) and substituting the following subsection:

- “(1) A building consent authority must not grant a building consent for the alteration of an existing building, or part of an existing building, unless the building consent authority is satisfied that, after the alteration,—
- “(a) the building will comply, as nearly as is reasonably practicable, with the provisions of the building code that relate to—
 - “(i) means of escape from fire; and
 - “(ii) access and facilities for persons with disabilities (if this is a requirement in terms of section 118); and
 - “(b) the building will,—
 - “(i) if it complied with the other provisions of the building code immediately before the building work began, continue to comply with those provisions; or
 - “(ii) if it did not comply with the other provisions of the building code immediately before the building work began, continue to comply at least to the same extent as it did then comply.”

24 Code compliance requirements: change of use

Section 115 is amended by repealing paragraph (b) and substituting the following paragraph:

- “(b) in any other case, unless the territorial authority gives the owner written notice that the territorial authority is satisfied, on reasonable grounds, that the building, in its new use,—
- “(i) will comply, as nearly as is reasonably practicable, with every provision of the building code that relates to the following:

- “(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
- “(ii) will,—
 - “(A) if it complied with the other provisions of the building code immediately before the change of use, continue to comply with those provisions; or
 - “(B) if it did not comply with the other provisions of the building code immediately before the change of use, continue to comply at least to the same extent as it did then comply.”

25 Code compliance requirements: subdivision

- (1) Section 116A(a) is amended by omitting “1 or more of”.
- (2) Section 116A is amended by repealing paragraph (b) and substituting the following paragraph:
 - “(b) will,—
 - “(i) if it complied with the other provisions of the building code immediately before the application for a subdivision was made, continue to comply with those provisions; or
 - “(ii) if it did not comply with the other provisions of the building code immediately before the application for a subdivision was made, continue to comply at least to the same extent as it did then comply.”

26 Compliance document for requirements of persons with disabilities

- (1) The heading to section 119 is amended by omitting “**Compliance document**” and substituting “**Acceptable solution**”.
- (2) Section 119(2) is amended by omitting “a compliance document” and substituting “an acceptable solution”.

27 Heading above section 121 amended

The heading above section 121 is amended by inserting “*affected*,” after “*dangerous*.”

28 New section 121A inserted

The following section is inserted after section 121:

“121A Meaning of affected building

A building is an affected building for the purposes of this Act if it is adjacent to, adjoining, or nearby—

- “(a) a dangerous building as defined in section 121; or
- “(b) a dangerous dam within the meaning of section 153.”

29 Heading above section 124 amended

The heading above section 124 is amended by inserting “*affected*,” after “*dangerous*.”

30 New section 124 substituted

Section 124 is repealed and the following section substituted:

“124 Dangerous, affected, earthquake-prone, or insanitary buildings: powers of territorial authority

- “(1) This section applies if a territorial authority is satisfied that a building in its district is a dangerous, affected, earthquake-prone, or insanitary building.
- “(2) In a case to which this section applies, the territorial authority may do any or all of the following:
 - “(a) put up a hoarding or fence to prevent people from approaching the building nearer than is safe:
 - “(b) attach in a prominent place on, or adjacent to, the building a notice that warns people not to approach the building:
 - “(c) except in the case of an affected building, issue a notice that complies with section 125(1) requiring work to be carried out on the building to—
 - “(i) reduce or remove the danger; or
 - “(ii) prevent the building from remaining insanitary:
 - “(d) issue a notice that complies with section 125(1A) restricting entry to the building for particular purposes or

restricting entry to particular persons or groups of persons.

“(3) This section does not limit the powers of a territorial authority.”

31 Requirements for notice given under section 124

Section 125(1) and the heading to section 125 are repealed and the following heading and subsections substituted:

“125 Requirements for notice requiring building work or restricting entry

“(1) A notice issued under section 124(2)(c) must—

“(a) be in writing; and

“(b) be fixed to the building in question; and

“(c) be given in the form of a copy to the persons listed in subsection (2); and

“(d) state the time within which the building work must be carried out, which must not be less than a period of 10 days after the notice is given or a period reasonably sufficient to obtain a building consent if one is required, whichever period is longer; and

“(e) state whether the owner of the building must obtain a building consent in order to carry out the work required by the notice.

“(1A) A notice issued under section 124(2)(d)—

“(a) must be in writing; and

“(b) must be fixed to the building in question; and

“(c) must be given in the form of a copy to the persons listed in subsection (2); and

“(d) may be issued for a maximum period of 30 days; and

“(e) may be reissued once only for a further maximum period of 30 days.”

32 Territorial authority may carry out work

Section 126(1) is amended by omitting “a notice given by the territorial authority under section 124(1)(c)” and substituting “a notice issued by the territorial authority under section 124(2)(c)”.

33 Building work includes demolition of building

Section 127 is amended by omitting “124(1)(c)” and substituting “124(2)(c)”.

34 New section 128 substituted

Section 128 is repealed and the following section substituted:

“128 Prohibition on using dangerous, affected, earthquake-prone, or insanitary building

“(1) This section applies if a territorial authority has done any of the following:

“(a) put up a hoarding or fence in relation to a building under section 124(2)(a):

“(b) attached a notice warning people not to approach a building under section 124(2)(b):

“(c) issued a notice restricting entry to a building under section 124(2)(d).

“(2) In any case to which this section applies, and except as permitted by section 124(2)(d), no person may—

“(a) use or occupy the building; or

“(b) permit another person to use or occupy the building.”

35 New section 128A inserted

The following section is inserted after section 128:

“128A Offences in relation to dangerous, affected, earthquake-prone, or insanitary buildings

“(1) A person who fails to comply with a notice issued under section 124(2)(c) that is given to that person under section 125(2)—

“(a) commits an offence; and

“(b) is liable to a fine not exceeding \$200,000.

“(2) A person who fails to comply with section 128(2)—

“(a) commits an offence; and

“(b) is liable on conviction 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.”

36 New section 132A inserted

The following section is inserted after section 132:

“132A Policy must take into account affected buildings

- “(1) A policy under section 131 must take into account affected buildings.
- “(2) A territorial authority must amend an existing policy to take into account affected buildings at the latest within a reasonable period following the next review of its policy required under section 132(4).
- “(3) In subsection (2), **existing policy** means a policy existing at the date of this section coming into force.”

37 Dams to which subpart 7 provisions apply

- (1) Section 133A is amended by repealing subsection (1) and substituting the following subsection:
- “(1) Sections 133B and 157 to 159 apply to all dams.”
- (2) Section 133A is amended by repealing subsection (2) and substituting the following subsection:
- “(2) The other provisions in this subpart apply only to classifiable and referable dams.”

38 New sections 133B and 133C and heading inserted

The following sections and heading are inserted after section 133A:

“133B Measurement of dams

For the purposes of this Act and any regulations made under it, the height of a dam is the vertical distance from the crest of the dam and must be measured,—

- “(a) in the case of a dam across a stream, from the natural bed of the stream at the lowest downstream outside limit of the dam; and
- “(b) in the case of a dam not across a stream, from the lowest elevation at the outside limit of the dam; and
- “(c) in the case of a canal, from the invert of the canal.

*“Notification of classifiable or referable dam***“133C Obligation to notify regional authority of classifiable or referable dam and change of ownership**

- “(1) The owner of a classifiable or referable dam must notify the regional authority in whose region the dam is situated of the size and location of the dam.
- “(2) The owner must notify the regional authority,—
- “(a) in the case of a dam commissioned before the commencement of the regulations referred to in section 135(2)(a), within 3 months after the commencement of those regulations; or
 - “(b) in the case of a dam commissioned after the commencement of the regulations referred to in section 135(2)(a), within 3 months after the dam is commissioned.
- “(3) If the ownership of a classifiable or referable dam that must be notified under subsection (1) changes, the transferring owner must notify the regional authority of the change of ownership within 3 months of the change.”

39 New sections 134 to 134C substituted

Section 134 is repealed and the following sections are substituted:

“134 When owner must classify dam

The owner of a dam must classify the dam in accordance with section 134B if—

- “(a) the dam is a classifiable dam; or
- “(b) the dam is a referable dam and the regional authority in whose region the dam is situated has required the owner to classify it.

“134A Regional authority may require owner to classify referable dam

- “(1) A regional authority may by written notice require the owner of a referable dam to classify it in accordance with section 134B if the dam is located within a designated area.
- “(2) In subsection (1), **designated area** means an area, or a proximity to an area or feature, designated or described by regulations made under this Act.

“134B Method of classification

- “(1) The owner of a dam to whom section 134 applies must classify the dam according to the potential impact of a failure of the dam on persons, property, and the environment.
- “(2) In classifying a dam, the owner must—
- “(a) apply the prescribed criteria and standards for dam safety; and
 - “(b) give the dam 1 of the following classifications:
 - “(i) low potential impact; or
 - “(ii) medium potential impact; or
 - “(iii) high potential impact; and
 - “(c) submit the classification of the dam to a recognised engineer for audit.
- “(3) For the purposes of this section, the prescribed criteria and standards for dam safety may incorporate, in accordance with sections 405 to 413, the standards, requirements, or recommended practices of national or international organisations that are concerned with the operation and safety of dams.

“134BA Classification of dams that are canals

A dam that is a canal that must be classified under section 134B may have different classifications for different sections of the canal and in that case each of those sections must be treated as a separate dam for the purposes of sections 134 to 139.

“134C Offence of failing to classify dam

A person to whom section 134 applies who fails to classify the dam in accordance with section 134B commits an offence and is liable on conviction to a fine not exceeding \$20,000.”

40 New section 135A inserted

The following section is inserted after section 135:

“135A Certifying engineer must notify regional authority and owner if dam dangerous

- “(1) An engineer engaged to provide a certificate for the purposes of section 135(1)(b), 142(1)(b), or 150(2)(f) must notify the regional authority and the owner of the dam if he or she believes that the dam is dangerous.

- “(2) The notice must be—
“(a) in writing; and
“(b) given within 5 working days after the engineer forms the belief in question.
- “(3) Nothing in subsection (1) requires an engineer to act outside the terms of his or her engagement by investigating whether the dam is dangerous or not and a breach of the duty in subsection (1) does not give rise to any civil liability in damages.”

41 Requirement for dam safety assurance programme

Section 140(1) is amended by omitting “section 134” and substituting “section 134B”.

42 Owner must provide dam safety assurance programme to regional authority

Section 142(1) is amended by inserting the following subparagraph after paragraph (b)(i):

- “(ia) states that the dam safety assurance programme contains a full list of the dam’s appurtenant structures as determined by the engineer; and”.

43 Review of dam safety assurance programme

Section 146(1)(b)(ii) is amended by omitting “5” and substituting “7”.

44 New sections 148A and 148B inserted

The following sections are inserted after section 148:

“148A Dam safety assurance programme for dams that are canals

- “(1) This section applies to a dam that is a canal and has different classifications for different sections of the canal in accordance with section 134B.
- “(2) If the whole canal is owned by a single owner, then for the purposes of sections 140 to 145, 147, 148, 150, and 150A a single dam safety assurance programme suffices for the whole canal.
- “(3) If the whole canal is not owned by a single owner, then for the purposes of sections 140 to 145, 147, 148, 150, and 150A a

single dam safety assurance programme suffices for the sections of the canal in the separate ownership of each owner.

- “(4) For the purposes of section 146, the potential impact classification that applies to the owner’s canal or section of the canal is the highest potential impact classification that applies to any section of the canal.

“148B Dam safety assurance programme for 2 or more dams forming single reservoir

- “(1) This section applies if 2 or more dams owned by the same owner form a single reservoir.
- “(2) For the purposes of sections 140 to 145, 147, 148, 150, and 150A a single dam safety assurance programme suffices for all the dams.
- “(3) For the purposes of section 146, the potential impact classification that applies is the highest potential impact classification that applies to any of the dams.”

45 Who is recognised engineer

Section 149(2) is amended by repealing paragraph (b) and substituting the following paragraphs:

- “(b) entitlement to a fee for undertaking an audit; or
- “(c) employment or engagement as an engineer by the owner of the dam concerned.”

46 Owner of dam must supply annual dam compliance certificate

- (1) Section 150(2) is amended by repealing paragraph (b) and substituting the following paragraph:
- “(b) state that, except for the identified, minor items of non-compliance, all procedures in the dam safety assurance programme have been fully complied with during the previous 12 months; and”.
- (2) Section 150(2)(f)(i) is amended by repealing subparagraph (B) and substituting the following subparagraph:
- “(B) except for the identified, minor items of non-compliance, all procedures in the dam safety assurance programme have

been complied with during the previous 12 months; and”.

47 New section 153B inserted

The following section is inserted after section 153A:

“153B Owner must notify regional authority of dangerous dam

The owner of a dam who has reasonable grounds for believing that the dam is, or has become, dangerous must immediately notify the regional authority in whose region the dam is situated.”

48 New section 175A inserted

The following section is inserted after section 175:

“175A Chief executive may provide dispute resolution services

The chief executive may, at his or her discretion, provide services to assist in the resolution of any dispute arising under a residential building contract (as defined in section 362B(1)).”

49 Complaints about building consent authorities

Section 200 is amended by inserting the following subsection after subsection (2):

“(2A) The chief executive, in considering whether to accept or decline a complaint under subsection (2)(b), is not required to seek any information or submission from the building consent authority, and the building consent authority is not entitled to proffer any information or submission at that stage.”

50 Procedure if chief executive proceeds to investigate complaint or matter

Section 202 is amended by adding the following subsection:

“(3) For the avoidance of doubt, a building consent authority’s failure to make written submissions after being given a reasonable opportunity to do so does not limit the chief executive in investigating the complaint or determining it.”

51 Disciplinary powers of chief executive

Section 203(2) is amended by inserting the following paragraph after paragraph (b):

“(ba) if paragraph (b) applies, require the building consent authority to monitor and report to the chief executive on the progress of the remedial action.”.

52 Special powers of chief executive for monitoring performance of functions under this Act

(1) Section 204(1) is amended by inserting the following paragraphs after paragraph (a):

“(aa) decide whether to accept or decline a complaint received under section 200(1); and

“(ab) investigate a complaint under section 200 or investigate a matter on his or her own initiative under section 201; and”.

(2) Section 204(2) is amended by repealing paragraphs (b) to (d) and substituting the following paragraphs:

“(b) may require any territorial authority, building consent authority, or regional authority to do any of the following within a reasonable time specified by the chief executive in writing:

“(i) supply any relevant information:

“(ii) answer any question that relates to the performance of functions under this Act:

“(iii) answer any question that relates to a complaint received under section 200(1) or to a complaint investigated under section 200 or to a matter investigated under section 201:

“(c) may, by written notice, require any person having possession or control of any relevant information to supply to the chief executive, in a manner and within a reasonable time specified in the notice, all or any of the information:

“(d) may enter and re-enter any land or building, with any appliances, machinery, and equipment that are reasonably necessary, to—

“(i) carry out any surveys, inspections, investigations, reviews, tests, and measurements that are reasonably necessary for the purposes of this section; and

- “(ii) generally do any other things that are reasonably necessary to enable the surveys, inspections, investigations, reviews, tests, and measurements to be carried out.”
- (3) Section 204 is amended by repealing subsection (4) and substituting the following subsection:
- “(4) In this section, **relevant information**—
- “(a) means any information of any description that relates to—
- “(i) the performance by a territorial authority, building consent authority, or regional authority of its functions under this Act; or
- “(ii) a complaint received under section 200(1); or
- “(iii) a complaint investigated under section 200 or a matter investigated under section 201; and
- “(b) includes information that is kept in any form, including electronic form.”

53 New sections 207A and 207B inserted

The following sections are inserted after section 207:

“207A Chief executive may require person to provide information or produce documents

- “(1) If the chief executive considers it necessary or desirable for the purposes of taking enforcement action under this Act, the chief executive may, by written notice served on any person, require that person—
- “(a) to provide to the chief executive, within the time and in the manner specified in the notice, any information or class of information specified in the notice; or
- “(b) to produce to the chief executive, or to a person specified in the notice who is acting on behalf of the chief executive in accordance with the notice, any document or class of documents specified in the notice (within the time and in the manner specified in the notice); or
- “(c) if necessary, to reproduce, or assist in reproducing, in usable form, information recorded or stored in any documents or classes of documents specified in the notice (within the time and in the manner specified in the notice).

- “(2) Information provided in response to a notice under subsection (1)(a) must be provided in the manner specified in the notice.
- “(3) If a document is produced in response to a notice under subsection (1), the chief executive, or the person to whom the document is produced, may—
- “(a) inspect and make records of that document; and
 - “(b) take copies of the document or of extracts from the document.

“207B Offence of failing to comply with chief executive’s notice for provision of information

A person who fails to comply with a notice served on that person under section 207A commits an offence and is liable on conviction to a fine not exceeding \$5,000.”

54 Access to certain information kept by territorial authority
Section 217(2) is amended by repealing paragraph (a) and substituting the following paragraph:

“(a) is subject to the power of a territorial authority to withhold information under the provisions of the Local Government Official Information and Meetings Act 1987; and”.

55 Sections 229 to 231 and heading above section 229 repealed

Sections 229 to 231, and the heading above section 229, are repealed.

56 New Part 4A inserted

The following Part is inserted after Part 4:

“Part 4A

“Consumer rights and remedies in relation to residential building work

“Preliminary provisions

“362A Outline of this Part

This Part protects consumers (referred to in this Part as **clients**) in relation to residential building work by—

- “(a) requiring certain information to be provided before a residential building contract is entered into; and
- “(b) prescribing minimum requirements for residential building contracts over a certain value; and
- “(c) implying warranties into residential building contracts; and
- “(d) providing remedies for breach of the implied warranties; and
- “(e) requiring defective building work under a residential building contract to be remedied if notified within 1 year of completion; and
- “(f) requiring certain information and documentation to be provided on completion of building work under a residential building contract.

“**362B Meaning of building work and residential building contract**

- “(1) In this Part, unless the context otherwise requires,—
- “**building work** does not include design work, and paragraph (c) of the definition of **building work** in section 7 does not apply to this Part
- “**residential building contract**—
- “(a) means a contract under which one person (the **building contractor**) agrees with another person (the **client**) to do building work for the client in relation to a household unit; but
 - “(b) does not include a subcontracting agreement between a building contractor and a building subcontractor.
- “(2) On section 6(8) of the Building Amendment Act 2012 coming into force, and in the following order,—
- “(a) first, the definition of **building work** in subsection (1) is repealed and the following definition substituted:

“ **building work** does not include design work, and paragraphs (c) and (e) of the definition of **building work** in section 7 do not apply to this Part’ ; and”
 - “(b) second, this subsection is repealed.

“362C Consumer rights under Fair Trading Act 1986 or Consumer Guarantees Act 1993 not affected by this Part
Nothing in this Part limits or derogates from the provisions of the Fair Trading Act 1986 or the Consumer Guarantees Act 1993.

“Pre-contract information

“362D Building contractor must provide information before residential building contract entered into

- “(1) This section applies to a residential building contract if—
- “(a) the price for the building work is not less than the prescribed minimum price (if any); or
 - “(b) the client has requested the prescribed disclosure information (if any) and prescribed checklist (if any).
- “(2) A building contractor must not enter into a residential building contract to which this section applies unless the building contractor has first provided to the client (or each client if there is more than 1)—
- “(a) the prescribed disclosure information (if any); and
 - “(b) a prescribed checklist (if any).
- “(3) The disclosure information and the checklist must each be in the form prescribed by regulations (if any).
- “(4) A person who contravenes subsection (2)(a) or (b) commits an infringement offence and is liable to a fine not exceeding \$2,000.
- “(5) A person commits an offence who, in any communication or document required to be made or given under subsection (2)(a), knowingly makes a statement that is false or misleading in a material particular or knowingly makes a material omission.
- “(6) A person who commits an offence under subsection (5) is liable on conviction to a fine not exceeding \$20,000.

“362E Purpose of regulations under section 362D

- “(1) The purpose of regulations prescribing disclosure information under section 362D(2)(a) is to give a client information about a building contractor, and the prescribed disclosure information

may include (but is not limited to) information relating to the following:

- “(a) the legal status of the building contractor, for example, whether the building contractor is an individual, a partnership, or a limited liability company:
- “(b) the dispute history of the building contractor:
- “(c) the skills, qualifications, and licensing status of the building practitioners who will be doing the building work:
- “(d) if the building contractor is a limited liability company, the role of each director and the business history of each director.

“(2) The purpose of regulations prescribing a checklist under section 362D(2)(b) is to provide guidance to a client on the matters that a client should take into consideration when entering into a residential building contract, and the prescribed checklist may include (but is not limited to) the following:

- “(a) an explanation of the legal obligations of both the client and the building contractor in relation to the building work:
- “(b) an outline of the risks associated with payment in advance of completion of the building work:
- “(c) a summary of dispute resolution options:
- “(d) a list of sources for further advice and information.

“Minimum requirements for residential building contract

“362F Minimum requirements for residential building contract over certain value

- “(1) This section applies to a residential building contract if the price for the building work is not less than the prescribed minimum price (if any).
- “(2) A residential building contract to which this section applies must—
 - “(a) be in writing; and
 - “(b) be dated; and
 - “(c) comply with regulations (if any) made under section 362G.

- “(3) A building contractor must not enter into a residential building contract to which this section applies unless the requirements of subsection (2) have been complied with.
- “(4) A person who contravenes subsection (3) by entering into an unwritten contract commits an infringement offence and is liable to a fine not exceeding \$2,000.

“362G Regulations may prescribe content, etc of residential building contract

- “(1) Regulations may be made requiring, as a minimum that must be contained in a residential building contract, all or any of the following matters:
 - “(a) the content of the contract:
 - “(b) categories or types of information:
 - “(c) specified information:
 - “(d) categories or types of clauses or terms:
 - “(e) specified clauses or terms.
- “(2) For the purposes of subsection (1) and without limitation to the matters set out in the following paragraphs, the regulations may require, as matters that must be contained in a residential building contract, matters relating to—
 - “(a) the parties:
 - “(b) dispute resolution:
 - “(c) the process for varying the contract:
 - “(d) the timeframe for performing the contract:
 - “(e) the payment process.
- “(3) The regulations may,—
 - “(a) if there is no written contract as required by section 362F(2)(a), stipulate that 1 or more prescribed specified clauses (if any) are taken to be included in the contract; and
 - “(b) if there is a written contract but it does not include a matter specified by the regulations, stipulate that 1 or more prescribed specified clauses (if any) are taken to be included in the contract.
- “(4) Subsection (3) applies despite any provision to the contrary in any agreement or contract.

*“Implied warranties***“362H When provisions relating to implied warranties apply**

- “(1) Sections 362I to 362K apply—
- “(a) to any of the following contracts entered into on or after the date on which this section comes into force:
 - “(i) a residential building contract, whether written or oral; or
 - “(ii) a contract for the sale of 1 or more household units by, or on behalf of, an on-seller; and
 - “(b) despite any provision to the contrary in any agreement or contract.
- “(2) For the purposes of sections 362I to 362K, a contract by or on behalf of an on-seller for the sale of 1 or more household units—
- “(a) is taken to be a contract for the building work already carried out or still to be carried out in building the household unit or units; and
 - “(b) is taken to incorporate as the obligations of the on-seller the obligations of the building contractor under a residential building contract.
- “(3) In subsection (1)(a)(ii), **on-seller** means a person who does any of the following things in relation to a household unit for the purpose of on-selling the household unit:
- “(a) builds the household unit by himself or herself or with the assistance of others;
 - “(b) in trade arranges for the household unit to be built or acquires the household unit from a person who built it or arranged for it to be built;
 - “(c) acquires the household unit in a transaction that is intended to defeat the purpose and effect of subsection (2).

“362I Implied warranties for building work in relation to household units

- “(1) In every contract to which this section applies, the following warranties about building work to be carried out under the contract are implied and are taken to form part of the contract:
- “(a) that the building work will be carried out—
 - “(i) in a proper and competent manner; and

- “(ii) in accordance with the plans and specifications set out in the contract; and
- “(iii) in accordance with the relevant building consent:
- “(b) that all materials to be supplied for use in the building work—
 - “(i) will be suitable for the purpose for which they will be used; and
 - “(ii) unless otherwise stated in the contract, will be new:
- “(c) that the building work will be carried out in accordance with, and will comply with, all laws and legal requirements, including, without limitation, this Act and the regulations:
- “(d) that the building work will—
 - “(i) be carried out with reasonable care and skill; and
 - “(ii) be completed by the date (or within the period) specified in the contract or, if no date or period is specified, within a reasonable time:
- “(e) that the household unit, if it is to be occupied on completion of building work, will be suitable for occupation on completion of that building work:
- “(f) if the contract states the particular purpose for which the building work is required, or the result that the owner wishes the building work to achieve, so as to show that the owner relies on the skill and judgement of the other party to the contract, that the building work and any materials used in carrying out the building work will—
 - “(i) be reasonably fit for that purpose; or
 - “(ii) be of such a nature and quality that they might reasonably be expected to achieve that result.
- “(2) Subsection (1) has effect despite any provision to the contrary in any contract or agreement, and despite any provision of any other enactment or rule of law.

“362J Proceedings for breach of warranties may be taken by non-party to contract

- “(1) An owner of the building or land in respect of which building work was carried out under a contract to which this section applies may take proceedings for a breach of any of the war-

warranties set out in section 362I whether or not that person was a party to the contract.

- “(2) In this section, **proceedings** includes—
- “(a) adjudication under the Construction Contracts Act 2002; and
 - “(b) a claim under the Weathertight Homes Resolution Services Act 2006; and
 - “(c) arbitration under the Arbitration Act 1996.

“**362K Person may not give away benefit of warranties**

A provision of an agreement or instrument that purports to restrict or remove the right of a person to take proceedings for a breach of any of the warranties set out in section 362I is of no effect in so far as the provision relates to a breach other than a breach that was known, or ought reasonably to have been known, by the person to exist at the time the agreement or instrument was executed.

“Remedies for breach of implied warranty

“**362L Remedies for breach of implied warranty**

- “(1) A person who has the benefit of an implied warranty set out in section 362I has the remedies set out in sections 362M to 362P for breach of that warranty.
- “(2) In sections 362M to 362P, the person who has the benefit of an implied warranty—
- “(a) is called the **client**; and
 - “(b) except for the purposes of section 362M(3)(b) or 362N(2)(b), includes the owner of the building or land in respect of which building work was carried out under a contract to which the implied warranty applies, whether or not that person was a party to the contract.
- “(3) In sections 362M to 362P, the person who is liable to remedy the breach is called the **building contractor**.
- “(4) Nothing in this section limits or derogates from any remedy for defective building work expressly provided for in a residential building contract, and nothing in any residential building contract limits or derogates from any of the remedies set out in sections 362M to 362P.

“362M Remedies if breach of warranty can be remedied

- “(1) This section applies in any case where the breach of warranty can be remedied.
- “(2) If this section applies, the client may require the building contractor to remedy the breach (including repairing or replacing defective materials supplied by the building contractor or the building contractor’s subcontractor).
- “(3) If the building contractor, after being required to remedy the breach, refuses or neglects to do so, or does not succeed in doing so within a reasonable time, the client may—
 - “(a) have the breach remedied by someone else and recover from the building contractor all reasonable costs incurred in having the breach remedied; or
 - “(b) cancel the contract in accordance with section 362P.
- “(4) In addition to the remedies in subsections (2) and (3), the client may obtain from the building contractor damages for any loss or damage to the client resulting from the breach (other than loss or damage through reduction in the value of the product of the building work) that was reasonably foreseeable as liable to result from the breach.

“362N Remedies if breach of warranty cannot be remedied or breach is substantial

- “(1) This section applies in any case where the breach of warranty cannot be remedied or the breach is substantial.
- “(2) If this section applies, the client may—
 - “(a) obtain from the building contractor damages in compensation for any reduction in value of the product of the building work below the price paid or payable by the client for that work; or
 - “(b) cancel the contract in accordance with section 362P.
- “(3) In addition to the remedy in subsection (2), the client may obtain from the building contractor damages for any loss or damage to the client resulting from the breach (other than loss or damage through reduction in the value of the product of the building work) that was reasonably foreseeable as liable to result from the breach.

“362O Meaning of substantial breach

For the purposes of section 362N, a breach of warranty is substantial if—

- “(a) a reasonable client fully acquainted with the nature and extent of the breach would not have entered into the residential building contract; or
- “(b) in any case to which section 362I(1)(f) applies, the building work—
 - “(i) is unfit for the particular purpose stated in the residential building contract; or
 - “(ii) is of such a nature and quality that it cannot be expected to produce the desired result stated in the residential building contract; or
- “(c) the building work is unsafe.

“362P Rules applying to cancellation

- “(1) The cancellation of a contract under section 362M(3)(b) or 362N(2)(b) does not take effect—
 - “(a) before the time at which the cancellation is made known to the building contractor; or
 - “(b) where it is not reasonably practicable to communicate with the building contractor, before the time at which the client indicates, by means that are reasonable in the circumstances, the client’s intention to cancel the contract.
- “(2) Subject to subsection (3), the cancellation may be made known by words, or by conduct indicating an intention to cancel, or both, and it is not necessary to use any particular form of words, so long as the intention to cancel is made known.
- “(3) Where it is reasonably practicable to communicate with the building contractor, subsection (2) takes effect subject to any provision in the contract requiring notice of cancellation in writing.
- “(4) Sections 8(3) and (4) and 9 of the Contractual Remedies Act 1979 apply, with all necessary modifications, to the cancellation of a contract under section 362M(3)(b) or 362N(2)(b).

*“Remedy of defect notified within 1 year of
completion*

**“362Q Building contractor or on-seller must remedy defect
notified within 1 year of completion**

- “(1) This section applies if—
- “(a) building work is carried out in relation to a household unit; and
 - “(b) the building work is defective; and
 - “(c) the defect is able to be remedied; and
 - “(d) the building work is carried out by or on behalf of a building contractor or the household unit is purchased from an on-seller (as defined in section 362H(3)).
- “(2) In any case to which this section applies, the client may give notice, within 12 months from completion of the building work, to either the building contractor or the on-seller (if there is one) requiring that person to remedy the defect.
- “(3) In any case to which this section applies, the building contractor or the on-seller, as the case may be, to whom notice has been given in accordance with subsection (2) must remedy the defect (including repairing or replacing defective materials used in the building work) within a reasonable time of notification in writing of the defect.
- “(4) In any case in which it is asserted against a building contractor or an on-seller that this section applies, the matters referred to in subsection (1) are presumed unless the contrary is proven.
- “(5) In addition to the remedy in subsection (3), the client may obtain from the building contractor or the on-seller damages for any loss or damage to the client resulting from the defect (other than loss or damage through reduction in value of the product of the building work) that was reasonably foreseeable as liable to result from the defect.
- “(6) Nothing in this section affects the warranties set out in section 362I or limits the time for enforcing any of those warranties.
- “(7) This section does not apply to building work carried out—
- “(a) before this section comes into force; or
 - “(b) under a contract entered into before this section comes into force.

“362R Definitions for purposes of section 362Q

“(1) In section 362Q, **client**—

“(a) means any of the following:

“(i) the person or persons with whom the building contractor contracted to do the building work in question:

“(ii) the person or persons who purchased the household unit from the on-seller:

“(iii) the owner of the building or land in respect of which the building work was carried out, whether or not that person was a party to the building contract or contract of sale; but

“(b) does not include a building contractor in that capacity contracting with another building contractor (for example, a contractor and subcontractor).

“(2) In section 362Q, **on-seller** has the same meaning as in section 362H(3).

“(3) In section 362Q(1)(d), building work carried out on behalf of a building contractor includes building work carried out on behalf of the building contractor by any of the following persons:

“(a) an employee of the building contractor:

“(b) another contractor:

“(c) a subcontractor:

“(d) any other person for whom the building contractor is responsible in law.

“Exclusion of liability for event not attributable to fault of building contractor or on-seller

“362S Exclusion of liability for event not attributable to fault of building contractor or on-seller

“(1) A building contractor is not liable under sections 362H to 362R for any defect in a building or breach of warranty to the extent that the defect or breach is caused by any of the following that occurs during or after completion of the building work in question:

“(a) a cause independent of human control:

“(b) any act or omission, including accidental damage, by a person who is none of the following:

“(i) the building contractor:

- “(ii) a subcontractor to the building contractor:
- “(iii) a person for whom the building contractor is responsible in law:
- “(c) failure to carry out normal maintenance:
- “(d) failure to carry out, or cause to be carried out, repairs as soon as practicable after the defect becomes apparent.
- “(2) In any proceeding against a building contractor to enforce a warranty or remedy contained in sections 362H to 362Q, the onus is on the building contractor to prove that the cause of the defect or breach was 1 or more of the causes set out in subsection (1).
- “(3) In this section, **building contractor** includes, with all necessary modifications, an on-seller as defined in section 362H(3).

*“Information and documentation to be provided
on completion of residential building contract*

“362T Building contractor must provide prescribed information and documentation on completion of residential building work

- “(1) This section applies where a building contractor has carried out building work under a residential building contract.
- “(2) As soon as practicable after completion of the building work, the building contractor must provide in writing the information and documentation prescribed by regulations made under this Act to the following persons:
 - “(a) the client; and
 - “(b) the relevant territorial authority.
- “(3) The regulations referred to in subsection (2) may prescribe different information and documentation to be provided to the client and the relevant territorial authority.
- “(4) A person who contravenes subsection (2) commits an infringement offence and is liable to a fine not exceeding \$2,000.

“362U Purpose of regulations under section 362T(2)

The purpose of regulations prescribing information and documentation under section 362T(2) is to ensure that the owner and future owners of the building have knowledge of who carried out the building work and access to information or

knowledge about the ongoing maintenance requirements of the building, and the prescribed information and documentation may include (but is not limited to) information and documentation relating to the following:

- “(a) the identity of the building contractor:
- “(b) any guarantee or insurance obtained by the building contractor in relation to the building work:
- “(c) maintenance requirements for any products incorporated in the building.

“Offence by commercial on-seller

“362V Offence for commercial on-seller to transfer household unit without code compliance certificate

- “(1) A commercial on-seller commits an offence if the commercial on-seller does either or both of the following things before a code compliance certificate is issued in relation to a household unit:
 - “(a) completes a sale of the household unit:
 - “(b) allows a purchaser of the household unit to enter into possession of the household unit.
- “(2) Subsection (1) does not apply if the commercial on-seller and the purchaser of the household unit enter into a written agreement, in the form (if any) prescribed by regulations made under this Act, that the commercial on-seller may do either or both of the things referred to in that subsection before a code compliance certificate is issued in relation to the household unit concerned.
- “(3) A person who commits an offence under this section is liable on conviction to a fine not exceeding \$200,000.
- “(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.
- “(5) In this section, **commercial on-seller** means a person who, in trade, does any of the following things in relation to a household unit for the purpose of selling the household unit:
 - “(a) builds the household unit; or
 - “(b) arranges for the household unit to be built; or

- “(c) acquires the household unit from a person who built it or arranged for it to be built; or
 - “(d) acquires the household unit in a transaction that is intended to defeat the purpose and effect of subsection (1).
- “(6) On section 6(3) of the Building Amendment Act 2012 coming into force, and in the following order,—
- “(a) first,—
 - “(i) the heading to this section is amended by omitting ‘**code compliance certificate**’ and substituting ‘**consent completion certificate**’; and
 - “(ii) subsections (1) and (2) are amended by omitting ‘code compliance certificate’ and substituting ‘consent completion certificate’; and
 - “(b) second, this subsection is repealed.”

57 Section 362A renumbered

Section 362A as in force before the commencement of this section is renumbered as section 362W.

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

Section 363(1) is amended by omitting “section 362A” and substituting “section 362W”.

59 Public use of premises may be allowed before issue of code compliance certificate in some circumstances

Section 363A(1) is amended by omitting “section 362A” and substituting “section 362W”.

60 Section 364 repealed

Section 364 is repealed.

61 Interpretation

- (1) Section 370 is amended by inserting the following definition in its appropriate alphabetical order:

“**enforcement officer** means a person who, under section 371A, may issue an infringement notice”.

- (2) Section 370 is amended by repealing the definition of **infringement offence** and substituting the following definition:
- “**infringement offence** means—
- “(a) an offence that is declared, by regulations made under section 402, to be an infringement offence for the purposes of this Act; or
 - “(b) an offence that is stated by a provision of this Act to be an infringement offence.”

62 New sections 371A to 371D inserted

The following sections are inserted after section 371:

“371A Who may issue infringement notices

- “(1) The following persons may issue infringement notices:
- “(a) any person who has been authorised by the chief executive under section 371B(1);
 - “(b) any officer of a territorial authority who has been authorised by the territorial authority under section 371B(2).
- “(2) In this section and in sections 371B and 371D, **person** means a natural person.

“371B Authorisation to issue infringement notice

- “(1) The chief executive may authorise any person to issue infringement notices under section 372.
- “(2) A territorial authority may authorise any of its officers to issue infringement notices under section 372.
- “(3) The chief executive or territorial authority, as the case may be, must issue the person authorised (the **enforcement officer**) with a warrant that clearly states the functions and powers that the enforcement officer has been authorised to perform or exercise under this Act.

“371C Conditions of authorisation

- “(1) An enforcement officer authorised under section 371B who exercises or purports to exercise the power to issue an infringement notice under section 372 must—
- “(a) carry on him or her—
 - “(i) the warrant issued under section 371B(3); and

- “(ii) evidence of his or her identity; and
 - “(b) if required to do so, produce the warrant and evidence referred to in paragraph (a).
- “(2) An enforcement officer who holds a warrant issued under section 371B(3) must, on the termination of his or her appointment as an enforcement officer, surrender the warrant to the chief executive or the territorial authority, as the case may be.

“371D Offence to impersonate enforcement officer

- “(1) A person commits an offence if the person impersonates or falsely pretends to be an enforcement officer named in a warrant issued under section 371B(3).
- “(2) A person who commits an offence under this section is liable on conviction to a fine not exceeding \$5,000.”

63 New section 374 substituted

Section 374 is repealed and the following section substituted:

“374 Payment of infringement fees

The infringement fee paid in respect of an infringement offence must be paid,—

- “(a) in the case of an infringement notice issued by a person authorised by a territorial authority, to that territorial authority;
- “(b) in the case of an infringement notice issued by the chief executive or by a person authorised by the chief executive, to the chief executive.”

64 Offences punishable on summary conviction

Section 376 is amended by omitting “Every” and substituting “Except for the offences contained in sections 362D(4), 362F(4), and 362T(4), every”.

65 Building consent authority not liable

Section 392(1) is amended by repealing paragraph (a) and substituting the following paragraph:

- “(a) an acceptable solution or a verification method:”.

66 Sections 396 to 399 and heading above section 396 repealed

- (1) Sections 396 to 399 and the heading above section 396 are repealed.
- (2) However, sections 396 to 399 continue to apply, as if they had not been repealed, to contracts entered into on or after 30 November 2004 but before the date on which this section comes into force.

67 Regulations: general

- (1) Section 402(1) is amended by inserting the following paragraphs after paragraph (w):
 - “(wa) defining the meaning of classifiable dam:
 - “(wb) defining the meaning of referable dam:
 - “(wc) designating or describing an area or proximity to an area or feature for the purposes of section 134A.”.
- (2) Section 402(1) is amended by inserting the following paragraphs after paragraph (x):
 - “(xa) prescribing disclosure information for the purposes of section 362D(2)(a) and the form of that disclosure information:
 - “(xb) prescribing a checklist for the purposes of section 362D(2)(b) and the form of that checklist:
 - “(xc) prescribing the minimum price for building work for the purposes of section 362D(1)(a) or prescribing the methodology for calculating that minimum price, or both:
 - “(xd) prescribing the minimum price for building work for the purposes of section 362F(1) or prescribing the methodology for calculating that minimum price, or both:
 - “(xe) prescribing the content of, or information or clauses or terms that must be contained in, a residential building contract for the purposes of section 362F(2)(c):
 - “(xf) prescribing any or all of the information and documentation for the purposes of section 362T(2).”.
- (3) Section 402(1)(zb) is amended by omitting “364(2)” and substituting “362V(2)”.

- 68 Incorporation of material by reference into regulations, certain Orders in Council, and compliance document**
- (1) The heading to section 405 is amended by omitting “**and compliance document**” and substituting “**acceptable solutions, and verification methods**”.
 - (2) Section 405(4) is amended by repealing paragraph (b) and substituting the following paragraph:
“(b) any acceptable solution or verification method; and”.
- 69 Effect of amendment to, or replacement of, material incorporated by reference**
- Section 406(c)(ii) is amended by omitting “a compliance document” and substituting “an acceptable solution or a verification method”.
- 70 Requirement to consult**
- Section 409(1)(b) is amended by omitting “a compliance document” in each place where it appears and substituting in each case “an acceptable solution or a verification method”.
- 71 Application of Regulations (Disallowance) Act 1989 to material incorporated by reference**
- Section 412(2) is amended by omitting “a compliance document” and substituting “an acceptable solution or a verification method”.
- 72 Transitional provision for document used in establishing compliance with building code**
- Section 439(2) is amended by omitting “a compliance document” and substituting “an acceptable solution or a verification method”.
- 73 New Schedule 1 substituted**
- (1) Schedule 1 (*old Schedule 1*) is repealed and the Schedule 1 set out in the Schedule of this Act (*new Schedule 1*) substituted.
 - (2) Building work for which a building consent was not required under old Schedule 1 but for which a building consent is required under new Schedule 1 does not require a building con-

sent if the building work commences before this section comes into force.

Part 2 Miscellaneous provisions

74 Building Amendment Act 2012 amended

- (1) This section amends the Building Amendment Act 2012 (the **2012 Act**).
- (2) New section 42(1) as inserted by section 17 of the 2012 Act is amended by repealing paragraph (b) and substituting the following paragraph:
 - “(b) any building work described in Schedule 1 for which a building consent is not required (*see* section 42A):”.
- (3) Section 17 of the 2012 Act is amended by inserting the following new section 42A of the principal Act after new section 42 as inserted by section 17 of the 2012 Act:

“42A Building work for which building consent is not required under Schedule 1

- “(1) Despite section 40 and subject to the conditions set out in subsection (2), a building consent is not required for building work in the following categories, whether or not a building consent would otherwise have been required:
 - “(a) building work described in Part 1 of Schedule 1; or
 - “(b) building work described in Part 2 of Schedule 1 that is carried out by an authorised person (*see* subsection (3)); or
 - “(c) building work described in Part 3 of Schedule 1 if the design of the building work has been carried out or reviewed by a chartered professional engineer and the building work has been carried out in accordance with that design.
- “(2) Subsection (1) is subject to the following conditions:
 - “(a) the building work complies with the building code to the extent required by this Act;
 - “(b) after the building work is completed, the building,—
 - “(i) if it complied with the building code immediately before the building work began, continues to comply with the building code; or

- “(ii) if it did not comply with the building code immediately before the building work began, continues to comply at least to the same extent as it did then comply:
 - “(c) the building work does not breach any other enactment:
 - “(d) the building to which the building work relates is not a building that is required to be licensed under the Hazardous Substances and New Organisms Act 1996.
- “(3) In subsection (1)(b), **authorised person** means a person who is authorised under the Plumbers, Gasfitters, and Drainlayers Act 2006 to do the work, except for a person who is authorised under section 15, 16, 19, or 25 of that Act.”
- (4) New section 48 as inserted by section 17 of the 2012 Act is amended by adding the following subsection:
- “(2) Where an application for a building consent must be accompanied by a certificate of work, the certificate of work does not of itself—
- “(a) create any liability in relation to any matter to which the certificate of work relates; or
 - “(b) give rise to any civil liability to the owner of the building in question that would not otherwise exist if the licensed building practitioner were not required to provide the certificate of work.”
- (5) New section 52X(2)(b) as inserted by section 17 of the 2012 Act is amended by omitting “completion” and substituting “compliance”.
- (6) New section 388(3) as inserted by section 76 of the 2012 Act is amended by inserting “150(4),” after “116B,”.

75 Amendments to correct use of new terminology

- (1) In section 11(a) of the principal Act, replace “compliance documents” with “acceptable solutions or verification methods”.
- (2) In section 169(1)(a) of the principal Act, replace “compliance documents” with “acceptable solutions and verification methods”.

- (3) In section 171(1)(a)(i) of the principal Act, replace “compliance documents” with “acceptable solutions and verification methods”.
- (4) In the Building (Product Certification) Regulations 2008, replace regulation 10(a)(ii) with:
 - “(ii) any relevant acceptable solution or verification method issued under section 22 of the Act:”.

76 Fencing of Swimming Pools Act 1987 amended

- (1) This section amends the Fencing of Swimming Pools Act 1987.
- (2) Section 13B(a) is amended by omitting “a compliance document” and substituting “an acceptable solution or a verification method”.

77 Local Government Official Information and Meetings Act 1987 amended

- (1) This section amends the Local Government Official Information and Meetings Act 1987.
- (2) Section 44A(2) is amended by inserting the following paragraph after paragraph (d):
 - “(da) the information required to be provided to a territorial authority under section 362T(2) of the Building Act 2004:”.

78 Health and Safety in Employment Act 1992 amended

- (1) This section amends the Health and Safety in Employment Act 1992.
- (2) Section 20(13)(a)(ii) is amended by omitting “compliance document” and substituting “acceptable solution or verification method”.

79 Building (Infringement Offences, Fees, and Forms) Regulations 2007 amended

- (1) This section amends the Building (Infringement Offences, Fees, and Forms) Regulations 2007.

- (2) The item relating to section 40 of the Building Act 2004 in Schedule 1 is amended by omitting “750” and substituting “1,000”.

80 Transitional provision for compliance documents

Any compliance document as defined by section 7 of the principal Act before amendment by this Act and in force immediately before the commencement of this section continues in force according to its terms as an acceptable solution or a verification method or both, as the case may be.

Schedule

s 73

New Schedule 1 substituted**Schedule 1**

s 42(1)(b)

**Building work for which building consent
not required****Part 1****Exempted building work****General****1 General repair, maintenance, and replacement**

- (1) The repair and maintenance of any component or assembly incorporated in or associated with a building, provided that comparable materials are used.
- (2) Replacement of any component or assembly incorporated in or associated with a building, provided that—
 - (a) a comparable component or assembly is used; and
 - (b) the replacement is in the same position.
- (3) However, subclauses (1) and (2) do not include the following building work:
 - (a) complete or substantial replacement of a specified system; or
 - (b) complete or substantial replacement of any component or assembly contributing to the building's structural behaviour or fire-safety properties; or
 - (c) 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
 - (d) sanitary plumbing or drainlaying under the Plumbers, Gasfitters, and Drainlayers Act 2006.

2 Territorial and regional authority discretionary exemptions

Any building work in respect of which the territorial authority or regional authority considers that a building consent is not necessary for the purposes of this Act because the authority considers that—

Part 1—*continued*

- (a) the completed building work is likely to comply with the building code; or
- (b) if the completed building work does not comply with the building code, it is unlikely to endanger people or any building, whether on the same land or on other property.

3 Single-storey detached buildings not exceeding 10 square metres in floor area

- (1) Building work in connection with any detached building that—
 - (a) is not more than 1 storey (being a floor level of up to 1 metre above the supporting ground and a height of up to 3.5 metres above the floor level); and
 - (b) does not exceed 10 square metres in floor area; and
 - (c) does not contain sanitary facilities or facilities for the storage of potable water; and
 - (d) does not include sleeping accommodation, unless the building is used in connection with a dwelling and does not contain any cooking facilities.
- (2) However, subclause (1) does not include building work in connection with a building that is closer than the measure of its own height to any residential building or to any legal boundary.

4 Unoccupied detached buildings

- (1) Building work in connection with any detached building that—
 - (a) houses fixed plant or machinery and under normal circumstances is entered only on intermittent occasions for the routine inspection and maintenance of that plant or machinery; or
 - (b) is a building, or is in a vicinity, that people cannot enter or do not normally enter; or
 - (c) is used only by people engaged in building work—
 - (i) in relation to another building; and
 - (ii) for which a building consent is required.

Part 1—*continued*

- (2) However, subclause (1) does not include building work in connection with a building that is closer than the measure of its own height to any residential building or to any legal boundary.

5 Tents, marquees, and similar lightweight structures

Building work in connection with any tent or marquee, or any similar lightweight structure (for example, a stall, booth, or compartment used at fairs, exhibitions, or markets) that—

- (a) does not exceed 100 square metres in floor area; and
- (b) is to be, or has been, used for a period of not more than 1 month.

6 Pergolas

Building work in connection with a pergola.

7 Repair or replacement of outbuilding

The repair or replacement of all or part of an outbuilding if—

- (a) the repair or replacement is made within the same footprint area that the outbuilding or the original outbuilding (as the case may be) occupied; and
- (b) in the case of any replacement, the replacement is made with a comparable outbuilding or part of an outbuilding; and
- (c) the outbuilding is a detached building that is not more than 1 storey; and
- (d) the outbuilding is not intended to be open to, or used by, members of the public.

Existing buildings: additions and alterations

8 Windows and exterior doorways in existing dwellings and outbuildings

Building work in connection with a window (including a roof window) or an exterior doorway in an existing dwelling that is not more than 2 storeys or in an existing outbuilding that is not more than 2 storeys, except,—

Part 1—*continued*

- (a) in the case of replacement, if the window or doorway being replaced 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
- (b) if the building work modifies or affects any specified system.

9 Alteration to existing entrance or internal doorway to facilitate access for persons with disabilities

Building work in connection with an existing entrance or internal doorway of a detached or semi-detached dwelling to improve access for persons with disabilities.

10 Interior alterations to existing non-residential building

Building work in connection with the interior of any existing non-residential building (for example, a shop, office, library, factory, warehouse, church, or school) if the building work—

- (a) does not modify or affect the primary structure of the building; and
- (b) does not modify or affect any specified system; and
- (c) does not relate to a wall that is—
 - (i) a fire separation wall (also known as a firewall); or
 - (ii) made of units of material (such as brick, burnt clay, concrete, or stone) laid to a bond in and joined together with mortar; and
- (d) does not include sanitary plumbing or drainlaying under the Plumbers, Gasfitters, and Drainlayers Act 2006.

11 Internal walls and doorways in existing building

Building work in connection with an internal wall (including an internal doorway) in any existing building unless the wall is—

- (a) load-bearing; or
- (b) a bracing element; or
- (c) a fire separation wall (also known as a firewall); or

Part 1—*continued*

- (d) part of a specified system; or
- (e) made of units of material (such as brick, burnt clay, concrete, or stone) laid to a bond in and joined together with mortar.

12 Internal linings and finishes in existing dwelling

Building work in connection with any internal linings or finishes of any wall, ceiling, or floor of an existing dwelling.

13 Thermal insulation

Building work in connection with the installation of thermal insulation in an existing building other than in—

- (a) an external wall of the building; or
- (b) an internal wall of the building that is a fire separation wall (also known as a firewall).

14 Penetrations

(1) Building work in connection with the making of a penetration not exceeding 300 millimetres in diameter to enable the passage of pipes, cables, ducts, wires, hoses, and the like through any existing dwelling or outbuilding and any associated building work, such as weatherproofing, fireproofing, or sealing, provided that—

- (a) in the case of a dwelling, the dwelling is detached or in a building that is not more than 3 storeys; and
- (b) in the case of an outbuilding, the outbuilding is detached and is not more than 3 storeys.

(2) In the case of an existing building to which subclause (1) does not apply, building work in connection with the making of a penetration not exceeding 300 millimetres in diameter to enable the passage of pipes, cables, ducts, wires, hoses, and the like through the building and any associated building work, such as weatherproofing, fireproofing, or sealing, provided that the penetration—

- (a) does not modify or affect the primary structure of the building; and
- (b) does not modify or affect any specified system.

Part 1—*continued*

15 Closing in existing veranda or patio

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.

16 Awnings

Building work in connection with an awning that—

- (a) is on or attached to an existing building; and
- (b) is on the ground or first-storey level of the building; and
- (c) does not exceed 20 square metres in size; and
- (d) does not overhang any area accessible by the public, including private areas with limited public access, for example, restaurants and bars.

17 Porches and verandas

Building work in connection with a porch or a veranda that—

- (a) is on or attached to an existing building; and
- (b) is on the ground or first-storey level of the building; and
- (c) does not exceed 20 square metres in floor area; and
- (d) does not overhang any area accessible by the public, including private areas with limited public access, for example, restaurants and bars.

18 Carports

Building work in connection with a carport that—

- (a) is on or attached to an existing building; and
- (b) is on the ground level of the building; and
- (c) does not exceed 20 square metres in floor area.

19 Shade sails

Building work in connection with a shade sail made of fabric or other similar lightweight material, and associated structural support, that—

- (a) does not exceed 50 square metres in size; and
- (b) is no closer than 1 metre to any legal boundary; and

Part 1—*continued*

- (c) is on the ground level, or, if on a building, on the ground or first-storey level of the building.

Other structures

20 Retaining walls

Building work in connection with a retaining wall that—

- (a) retains not more than 1.5 metres depth of ground; and
- (b) does not support any surcharge or any load additional to the load of that ground (for example, the load of vehicles).

21 Fences and hoardings

- (1) Building work in connection with a fence or hoarding in each case not exceeding 2.5 metres in height above the supporting ground.
- (2) Subclause (1) does not include a fence as defined in section 2 of the Fencing of Swimming Pools Act 1987.

22 Dams (excluding large dams)

Building work in connection with a dam that is not a large dam.

23 Tanks and pools (excluding swimming pools)

Building work in connection with a tank or pool and any structure in 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, that—

- (a) does not exceed 500 litres capacity and is supported not more than 4 metres above the supporting ground; or
- (b) does not exceed 1 000 litres capacity and is supported not more than 3 metres above the supporting ground; or
- (c) does not exceed 2 000 litres capacity and is supported not more than 2 metres above the supporting ground; or
- (d) does not exceed 4 000 litres capacity and is supported not more than 1 metre above the supporting ground; or

Part 1—*continued*

- (e) does not exceed 8 000 litres capacity and is supported not more than 0.5 metres above the supporting ground;
or
- (f) does not exceed 16 000 litres capacity and is supported not more than 0.25 metres above the supporting ground;
or
- (g) does not exceed 35 000 litres capacity and is supported directly by ground.

24 Decks, platforms, bridges, boardwalks, etc

Building work in connection with a deck, platform, bridge, boardwalk, or the like from which it is not possible to fall more than 1.5 metres even if it collapses.

25 Signs

Building work in connection with a sign (whether free-standing or attached to a structure) and any structural support of the sign if—

- (a) no face of the sign exceeds 6 square metres in surface area; and
- (b) the top of the sign does not exceed 3 metres in height above the supporting ground level.

26 Height-restriction gantries

Building work in connection with a height-restriction gantry.

27 Temporary storage stacks

Building work in connection with a temporary storage stack of goods or materials.

28 Private household playground equipment

Building work in connection with playground equipment if—

- (a) the equipment is for use by a single private household;
and
- (b) no part of the equipment exceeds 3 metres in height above the supporting ground level.

Part 1—*continued*Network utility operators or other similar
organisations**29 Certain structures owned or controlled by network utility
operators or other similar organisations**

Building work in connection with a motorway sign, stopbank, culvert for carrying water under or in association with a road, or other similar structure that is—

- (a) a simple structure; and
- (b) owned or controlled by a network utility operator or other similar organisation.

Demolition

30 Demolition of detached building

The complete demolition of a building that is detached and is not more than 3 storeys.

31 Removal of building element

The removal of a building element from a building that is not more than 3 storeys, provided that the removal does not affect—

- (a) the primary structure of the building; or
- (b) any specified system; or
- (c) any fire separation.

Part 2

Sanitary plumbing and drainlaying carried
out by person authorised under Plumbers,
Gasfitters, and Drainlayers Act 2006

Plumbing and drainage

32 Repair, maintenance, and replacement

- (1) The repair and maintenance of any sanitary plumbing and drainage in or associated with a building, provided that comparable materials are used.
- (2) Replacement of sanitary plumbing and drainage in or associated with a building, provided that—

Part 2—*continued*

- (a) a comparable component or assembly is used; and
 - (b) the replacement is in the same position.
- (3) However, subclauses (1) and (2) do not include the following building work:
- (a) complete or substantial replacement of a specified system; or
 - (b) 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
 - (c) repair or replacement of any water heater (unless permitted under clauses 36 to 38).

33 Drainage access points

The opening and reinstatement of any purpose-made access point within a drainage system that is not a NUO system or part of a NUO system.

34 Minor alteration to drains

- (1) Alteration to drains for a dwelling if the alteration is of a minor nature, for example, shifting a gully trap.
- (2) Subclause (1) does not include making any new connection to a service provided by a network utility operator.

35 Alteration to existing sanitary plumbing (excluding water heaters)

- (1) Alteration to existing sanitary plumbing in a building, provided that—
 - (a) the total number of sanitary fixtures in the building is not increased by the alteration; and
 - (b) the alteration does not modify or affect any specified system.
- (2) Subclause (1) does not include an alteration to a water heater.

Part 2—*continued*

Water heaters

- 36 Repair and maintenance of existing water heater**
The repair or maintenance of any existing water heater using comparable materials, comparable components, or a comparable assembly.
- 37 Replacement of open-vented water storage heater connected to supplementary heat exchanger**
The replacement of any water-storage heater connected to a solid-fuel heater or other supplementary heat exchanger if the replacement—
- (a) is a comparable open-vented water storage heater; and
 - (b) is fixed in the same position, and uses the same pipework, as the replaced water storage heater.
- 38 Replacement or repositioning of water heater that is connected to, or incorporates, controlled heat source**
The replacement of any water heater (including the repositioning of an existing water heater) if the replacement water heater is connected to, or incorporates, a controlled heat source or, if connected to or incorporating more than 1 heat source, 2 or more heat sources all of which are controlled.

Part 3

Building work for which design is carried
out or reviewed by chartered professional
engineer

- 39 Signs**
Building work in connection with any sign (whether freestanding or attached to a structure) and any structural support of the sign.

Part 3—*continued*

40 Plinths

Building work in connection with any plinth or similar foundation if the plinth or foundation supports plant, a tank, equipment, machinery, or any similar item.

41 Retaining walls

- (1) Building work in connection with a retaining wall in a rural zone, if—
- (a) the wall retains not more than 3 metres depth of ground; and
 - (b) the distance between the wall and any legal boundary or existing building is at least the height of the wall.
- (2) In subclause (1), **rural zone** means any zone or area (other than a rural residential area) that, in the district plan of the territorial authority in whose district the building work is to be undertaken, is described as a rural zone, rural resource area, or rural environment, or by words of similar meaning.

42 Certain public playground equipment

Building work in connection with playground equipment if the work is for a government department, Crown entity, licensed early childhood centre, territorial or regional authority, or other similar public organisation.

43 Removal of sign, plinth, retaining wall, or public playground equipment

The removal of any of the structures referred to in clauses 39 to 42, whether or not the design of the structure has been carried out or reviewed by a chartered professional engineer.

Reprints notes

1 *General*

This is a reprint of the Building Amendment Act 2013 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Building Amendment Act 2013 Commencement Order 2014 (LI 2014/360)
