

## About the new Act

The Building Act 2004 is about ensuring buildings are designed and built right first time. It improves control of, and encourages better practices in, building design and construction.

This means:

- more clarity on the standards we expect buildings to meet
- more guidance on how those standards can be met
- more certainty that capable people are undertaking building design, construction and inspections
- more scrutiny in the building consent and inspection process
- better protections for homeowners through the introduction of mandatory warranties.

The Building Act 2004 comes into force on 30 November 2004.

For more information visit:  
[www.building.govt.nz](http://www.building.govt.nz)

or

[www.builders.govt.nz](http://www.builders.govt.nz)  
or call 0800 60 60 50.

 **Building Performance**  
CHANGES TO THE BUILDING ACT

Published by the Ministry of Economic Development  
and the Building Industry Authority, September 2004.

## The Building Act 2004 – a summary

September 2004

 **Building Performance**  
CHANGES TO THE BUILDING ACT

## WHAT THE BUILDING ACT 2004 DOES

The Building Act 2004 introduces a new framework for regulating building work, establishes a licensing regime for building practitioners, and will mean clearer performance standards for buildings.

The Act repeals the Building Act 1991 and dissolves the Building Industry Authority, which currently regulates the building industry under the 1991 Act. Administration of the Building Act shifts to a government department – the Department of Building and Housing, which will be established on 1 November 2004.

### KEY CHANGES

Parts of the Act come into effect immediately on 30 November 2004.

#### Mandatory compliance documents

Certain methods that must be used in order to comply with the Building Code can be set by the Department of Building and Housing.

#### Warnings and bans

Warnings about and bans on, the use of certain building products or methods can be issued by the Department of Building and Housing.

#### Determinations

The Chief Executive of the Department of Building and Housing can make Determinations on a range of issues including a building consent authority's refusal to issue a consent, Code compliance certificate, compliance schedule or certificate of acceptance. The Act sets out clear processes and timelines for these Determinations.

#### Building advisory panel

The Chief Executive of the Department of Building and Housing must appoint a building advisory panel from whom he or she will be able to seek advice on, among other things, current and emerging trends in the building industry and whether regulations are achieving their purpose. This panel will be drawn from experts in the building sector. A public process will be used in appointing the panel.

#### Mandatory warranties

The Act sets out certain warranties that are implied in all building contracts and any sale agreements made by building developers, whether specified in the contract or not. These include the expectation that the work will be done competently and using suitable materials.

#### Fines

The Act sets out a range of fines for offences and allows for the use of infringement notices for minor offences. The maximum fine for the worst offence is \$200,000.

Parts of the Act relating to the building consent and inspection process come into effect on 31 March 2005.

The new building consent requirements apply only to building projects consented after 31 March 2005. Building work given a consent before this date will be completed under the requirements of the Building Act 1991 (apart from where the new certificate of acceptance procedure is used – see below) and will be assessed for Code compliance against the Building Code provisions in force when the consent was issued.

#### Code compliance certificates

The building consent authority that issues the building consent will be responsible for inspecting that work and issuing a Code compliance certificate. The certificate will be issued if the building has been built in compliance with the building consent.

Residential property developers will be unable to complete the sale of a household unit without a Code compliance certificate, or special contractual arrangements.

#### Certificates of acceptance

The Act introduces a new document called a certificate of acceptance. These can be issued when a building consent was not applied for before the work commenced, or where inspections cannot be done to accurately decide if the work was done in accordance with the consent. This allows a building consent authority to inspect and certify what work it can as being compliant with the Building Code and can be used for work started or consented before 31 March 2005.

#### Changing a building's use

Where a building changes in use from commercial to residential, the building must meet, as reasonably practical, all Building Code requirements.

The Act does allow for improvements in fire safety and access for people with disabilities without the need to upgrade all other aspects of the building.

The Act includes major changes that will be implemented over several years.

#### Building Code changes

The Building Code will be reviewed by 30 November 2007 to examine how it could be more user-friendly, and ensure that performance standards for buildings are clear and meet community expectations. These changes will take into account the Act's requirements for sustainable development and for buildings that help people stay healthy and comfortable.

#### Certification of building products

Products can be certified as complying with the Building Code. Certificates will be issued by third party certification bodies. These bodies will be accredited themselves, by an accreditation agency appointed by the Chief Executive of the Department of Building and Housing. Product certification will be introduced in mid-2005.

#### Registration of building consent authorities

Councils and private building certifiers will need to be registered as building consent authorities to issue building consents, Code compliance certificates, notices to fix, and certificates of acceptance. The Act allows for registration of councils, and private companies and individuals. To be registered the applicant will have to be assessed on whether they meet quality standards for their procedures, processes and people. This assessment will be carried out by an accreditation body appointed by the Chief Executive of the Department of Building and Housing. The other standards that a building consent authority needs to meet will be set out in regulations.

Regional authorities will be responsible for consenting dams and will need to become building consent authorities.

Councils, companies and individuals will need to be registered by 30 November 2007 to carry out functions as a building consent authority.

#### Building consents

All city and district councils must accept and process applications for building consents (except in relation to dams). Consents can also be issued by private companies who are registered building consent authorities. From 30 November 2009, applications for building consents will have to include a list of the licensed building practitioners who will be involved in the project.

#### Licensing of building practitioners

The Act sets up a system for licensing building practitioners.

##### 🏠 Restricted work

Regulations will define certain work as having to be done or supervised by a Licensed Building Practitioner. This work is called 'restricted work'.

##### 🏠 Categories of licences

Exactly what types of trade will be licensed will be set out in regulations. The Department of Building and Housing will run the licensing system.

##### 🏠 Board

People will be able to make complaints about licensed building practitioners. These complaints will be heard by an independent Board.

A licensed building practitioner will have to do, or supervise, any restricted work from 30 November 2009.

Further information about the licensing system is available at [www.builders.govt.nz](http://www.builders.govt.nz) or by calling 0800 60 60 50.