

# Fire Service Amendment Act 2005

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

- (1) This Act is the Fire Service Amendment Act 2005.
- (2) In this Act, the Fire Service Act 1975 is called “the principal Act”.

**2 Commencement**

- (1) Sections 8 and 11 come into force on a date to be appointed by the Governor-General by Order in Council.
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

**3 Establishment of New Zealand Fire Service**

Section 3(1A) of the principal Act is repealed.

**4 Functions and powers of Commission as National Rural Fire Authority**

- (1) Section 14A(2)(e) of the principal Act is repealed.
- (2) Section 14A(2)(j) of the principal Act is amended by omitting the words “for the purpose of approval of rural fire plans prepared by Fire Authorities”.
- (3) Section 14A(2) of the principal Act is amended by adding the following paragraphs:
  - “(k) to set, in consultation with Fire Authorities, minimum standards for Fire Authorities in relation to the following matters:
    - “(i) the training, equipping, and clothing of Fire Officers (as defined in section 2 of the Forest and Rural Fires Act

- 1977) and any other persons required by a Fire Authority to attend a fire:
- “(ii) achieving timely responses to fires:
  - “(iii) fire weather observation:
  - “(iv) assessing fire hazards:
- “(l) to audit Fire Authorities’ compliance with the standards set under paragraph (k):
- “(m) to monitor and evaluate the performance of Fire Authorities under the Forest and Rural Fires Act 1977.”

#### **5 New section 14AB inserted**

The principal Act is amended by inserting, after section 14A, the following section:

##### **“14AB Duty to consult Fire Authority before finalising performance evaluation**

In performing its function under section 14A(2)(m), the National Rural Fire Authority must, before finalising an evaluation of a Fire Authority’s performance, consult with the Fire Authority by giving it—

- “(a) a copy of the draft evaluation; and
- “(b) a reasonable opportunity to make—
  - “(i) written submissions on the draft evaluation; and
  - “(ii) oral submissions on the draft evaluation through a representative.”

#### **6 Responsibilities of National Rural Fire Officer**

Section 17X(1)(d) of the principal Act is amended by omitting the words “which shall, among other things, approve, for the purpose of claims on the Rural Fire Fighting Fund, the fire plans of each Fire Authority (which plans shall be in accordance with the Rural Fire Management Code of Practice)”.

#### **7 Functions of Commission in relation to the promotion of fire safety**

Section 21 of the principal Act is amended by renumbering subsection (5) (inserted by section 149 of the Hazardous Substances and New Organisms Act 1996) as subsection (4A).

**8 New sections 21A to 21I substituted**

The principal Act is amended by repealing section 21A, and substituting the following sections:

**“21A Relevant building defined for purposes of sections 21B to 21H**

“(1) In sections 21B to 21H, **relevant building** means a building or part of a building used for 1 or more of the following purposes:

- “(a) the gathering together, for any purpose, of 100 or more persons:
- “(b) providing employment facilities for 10 or more persons:
- “(c) providing accommodation for more than 5 persons (other than in 3 or fewer household units):
- “(d) storing or processing hazardous substances in quantities exceeding the prescribed minimum amounts:
- “(e) providing early childhood facilities (other than in a household unit):
- “(f) providing nursing, medical, or geriatric care (other than in a household unit):
- “(g) providing specialised care for persons with disabilities (other than in a household unit):
- “(h) providing accommodation for persons under lawful detention (not being persons subject to home detention).

“(2) However, in sections 21B to 21H, **relevant building** does not include—

- “(a) a Crown building, or class of Crown building, that is specified by the Minister by notice in the *Gazette*; or
- “(b) premises of the mission (as defined in the First Schedule of the Diplomatic Privileges and Immunities Act 1968).

**“21B Owner must provide and maintain evacuation scheme for relevant building**

“(1) The owner of a relevant building must provide and maintain an evacuation scheme that is designed to enable evacuation from the scene of a fire safely and within a reasonable time,—

- “(a) if the building has an automatic sprinkler system, to a place of safety inside or outside the building; and
- “(b) in every other case, to a place of safety outside the building.

- “(2) However, the owner of a relevant building is not required to provide and maintain an evacuation scheme for the building if—
- “(a) the building is used for a purpose specified in section 21A(1)(b) or (c); and
  - “(b) the building has an automatic sprinkler system.
- “(3) Subsection (2) is subject to section 21E.
- “(4) In this section,—
- “**automatic sprinkler system** means an automatic sprinkler system that satisfies the minimum standard required by regulations made under section 92(2)(ne)
  - “**evacuation scheme** means an evacuation scheme that complies with regulations made under section 92(2)(nd)
  - “**owner**, in relation to a building for which a unit plan within the meaning of section 2 of the Unit Titles Act 1972 has been deposited, means the body corporate.

**“21C Owner must apply to National Commander for approval of evacuation scheme**

- “(1) The owner of a relevant building must apply to the National Commander for approval of the evacuation scheme provided for the building under section 21B.
- “(2) The application must be in writing in the prescribed form.
- “(3) The National Commander must notify the owner of the building in writing of the outcome of the application.
- “(4) If the application is rejected, the owner of the building must reapply to the National Commander for approval of an amended evacuation scheme, as if the application for approval were an application under subsection (1).

**“21D National Commander may exempt from requirements**

- “(1) The National Commander may exempt an owner of a relevant building from complying with the requirements of section 21B.
- “(2) The National Commander must not exempt the owner under this section unless satisfied that there are structures and systems in place for the building that will ensure that, if there is a fire within the building, people may safely evacuate from it.

**“21E Owner must notify National Commander if section 21B(2) applies to relevant building**

- “(1) The owner of a relevant building to which section 21B(2) applies must notify the National Commander that the building does not require an evacuation scheme.
- “(2) The notification must be in writing in the prescribed form.

**“21F Powers of entry of National Commander**

- “(1) The National Commander may enter a relevant building for the purposes of ascertaining whether, or to what extent, the owner of the building is complying with the requirements of section 21B.
- “(2) The National Commander must—
- “(a) give at least 24 hours’ written notice to the owner and occupier of the building before entering the building; and
  - “(b) identify himself or herself when entering the building and, if requested, at any later time.
- “(3) If the owner or occupier of the building is not present at the time the National Commander enters and inspects the building, the National Commander must—
- “(a) leave in a prominent location on or in the building a written statement that includes the following information:
    - “(i) the time and date of the entry; and
    - “(ii) the name of the National Commander (and fact of his or her status); and
    - “(iii) the reasons for the entry; and
    - “(iv) the address of the National Commander to which enquiries should be made; and
  - “(b) take all other reasonable steps to give the information in paragraph (a) to the owner or occupier of the building.
- “(4) In this section and section 21G, **National Commander** includes any person authorised in writing by the National Commander.

**“21G District Court order closing relevant building**

- “(1) If the owner of a relevant building has failed to comply with the requirements of section 21B, the National Commander may apply to a District Court Judge for an order that the building be closed until those requirements are met.
- “(2) The National Commander must give the owner concerned at least 10 days’ written notice before applying for an order.
- “(3) Before making an order, the District Court Judge must—
- “(a) conduct a hearing, and give the National Commander and the owner of the building an opportunity to be heard; and
  - “(b) be satisfied that the owner has failed to comply with the requirements of section 21B.

**“21H Voluntary application for approval of evacuation scheme**

- “(1) An owner of a building that is not a relevant building may apply to the National Commander for approval of an evacuation scheme for the building.
- “(2) The application must be in writing in the prescribed form.
- “(3) Section 21B applies, with all necessary modifications, to an application under this section as if the application were an application under section 21C.
- “(4) No order under section 21G may be made in relation to a building to which this section applies.

**“21I Previously approved evacuation schemes**

An evacuation scheme is to be treated as having been approved under section 21 C if—

- “(a) the National Commander approved the evacuation scheme under any Act or regulations; and
- “(b) the approval was given before the commencement of section 8 of the Fire Service Amendment Act 2005.”

**9 Functions, duties, and powers of Chief Fire Officer**

Section 28(3B) of the principal Act is amended by omitting the word “an” in the second place where it occurs.

**10 Eligibility for grant assistance**

- (1) Section 46C(1)(b) of the principal Act is repealed.
- (2) Section 46C(1) of the principal Act is amended by inserting, after paragraph (c), the following paragraph:  
“(ca) at the time the fire occurred, the most recent evaluation of the Fire Authority’s performance under section 14A(2)(m) was considered satisfactory by the National Rural Fire Authority; and”.

**11 Regulations**

- (1) Section 92(2) of the principal Act is amended by inserting, after paragraph (nb), the following paragraphs:  
“(nc) prescribing, for the purposes of section 21A, the minimum amounts of hazardous substances stored or processed in a relevant building;  
“(nd) prescribing, for the purposes of section 21B, the matters to be included in an evacuation scheme;  
“(ne) prescribing, for the purposes of section 21B, the minimum standards required for automatic sprinkler systems;  
“(nf) prescribing the form of—  
“(i) applications under sections 21C and 21H; and  
“(ii) notifications under section 21E.”.
- (2) Section 92(3) of the principal Act is repealed.

**12 Consequential amendment to Forest and Rural Fires Act 1977**

Section 56(2)(a)(iii) of the Forest and Rural Fires Act 1977 is repealed.

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**Legislative history**

10 May 2005

Divided from Statutes Amendment Bill (No 4),  
third reading

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