

**Reprint
as at 1 February 2010**



Building Amendment Act 2009

Public Act 2009 No 25
Date of assent 31 July 2009
Commencement see section 2

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

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

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1 Title

This Act is the Building Amendment Act 2009.

2 Commencement

- (1) Sections 7(2), 10 to 14, 18, 20 to 24, and 26 come into force 6 months after the date on which this Act receives the Royal assent.
- (2) Sections 5, 6, 7(1), 8, 9, 15 to 17, 19, 25, and 27 to 29 come into force on a date appointed by the Governor-General by Order in Council; and 1 or more Orders in Council may be made appointing different dates for different provisions.
- (3) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

Section 2(2): sections 5, 6, 7(1), 8, 9, 15 to 17, 19, 25, and 27 to 29 brought into force, on 1 February 2010, by the Building Amendment Act 2009 Commencement Order 2009 (SR 2009/407).

Part 1

Preliminary provisions

3 Principal Act amended

This Act amends the Building Act 2004.

4 Purpose

The purpose of this Act is to reduce the compliance requirements under the principal Act and improve the efficiency of the building consent process by, among other things,—

- (a) allowing for national multiple-use approvals; and

- (b) introducing a more efficient process for dealing with minor variations to building consents.

Part 2

Amendments to principal Act

5 Interpretation

Section 7 is amended by inserting the following definitions in their appropriate alphabetical order:

“**minor customisation**, in relation to an application for a building consent that incorporates plans and specifications that have national multiple-use approval, means a minor modification, addition, or variation to those plans and specifications that is permitted by regulations made under section 402(1)(kc)

“**minor variation** means a minor modification, addition, or variation to a building consent that is permitted by regulations made under section 402(1)(kd)

“**national multiple-use approval** means an approval issued by the chief executive under section 30F”.

6 Role of chief executive

Section 11 is amended by inserting the following paragraph after paragraph (b):

“(ba) determines applications for national multiple-use approvals; and”.

7 Outline of this Part

- (1) Section 15(1) is amended by inserting the following paragraph after paragraph (b):

“(ba) the effect of a national multiple-use approval and how to apply for one:”.

- (2) Section 15(1) is amended by repealing paragraph (c) and substituting the following paragraph:

“(c) when a project information memorandum is required and how to apply for one:”.

8 How compliance with building code is established

- (1) Section 19(1) is amended by inserting the following paragraph after paragraph (c):
- “(ca) a current national multiple-use approval issued under section 30F, if every relevant condition in that national multiple-use approval is met.”
- (2) Section 19(1)(d) is amended by omitting “any” and substituting “every”.

9 New heading and sections 30A to 30H inserted

The following heading and sections are inserted after section 30:

“National multiple-use approvals

“30A National multiple-use approval establishes compliance with building code

- “(1) A national multiple-use approval establishes that the plans and specifications to which it relates comply with the building code.
- “(2) To avoid doubt, a national multiple-use approval does not confer the right to carry out building work that requires a building consent.

“30B How to apply for national multiple-use approval

- “(1) An application for a national multiple-use approval must—
- “(a) be made in writing; and
- “(b) be given, in the prescribed form and manner (if any), to the chief executive; and
- “(c) contain the prescribed information (if any); and
- “(d) be accompanied by plans and specifications that are—
- “(i) required by regulations made under section 402; or
- “(ii) if the regulations do not so require, required by the chief executive; and
- “(e) if the application relates to building work for which a compliance schedule is required, be accompanied by a list of all specified systems for the building; and
- “(f) contain or be accompanied by any other information that the chief executive reasonably requires.

“(2) An application for an amendment to a national multiple-use approval must be made as if it were an application for a national multiple-use approval, and sections 30A to 30H apply with any necessary modifications.

“30C Applications for national multiple-use approval relating to design work that is restricted building work

“(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 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.

“(2) The design work referred to in subsection (1) must be carried out or supervised by 1 or more licensed building practitioners who are licensed to carry out or supervise that work.

“(3) The plans and specifications that contain the design work referred to in subsection (1) must be accompanied by a memorandum—

“(a) provided by 1 or more licensed building practitioners who carried out or supervised that design work; and

“(b) that identifies that design work; and

“(c) that states—

“(i) that the design work complies with the building code; or

“(ii) whether waivers or modifications of the building code are required and, if so, what those waivers or modifications are.

“30D Chief executive must decide whether to accept, for processing, application for national multiple-use approval

“(1) The chief executive must, as soon as practicable after receiving an application for a national multiple-use approval,—

“(a) decide whether to accept that application for processing; and

“(b) give written notice of his or her decision to the applicant; and

- “(c) if the chief executive decides to refuse to accept the application for processing, state the reasons for the refusal in the notice given under paragraph (b).
- “(2) The chief executive may require further reasonable information in respect of the application.
- “(3) The chief executive may refuse to accept for processing an application for a national multiple-use approval only if the chief executive is satisfied, on reasonable grounds, that the application—
 - “(a) does not meet the requirements of this Act; or
 - “(b) includes a building method or product in relation to which the chief executive has publicly notified a ban under section 26; or
 - “(c) does not meet the prescribed eligibility criteria (if any) for a national multiple-use approval.

“30E Processing application for national multiple-use approval

- “(1) The chief executive must, after accepting for processing an application for a national multiple-use approval, decide whether to—
 - “(a) issue the national multiple-use approval; or
 - “(b) refuse to issue the national multiple-use approval.
- “(2) If regulations made under section 402(1)(kb) are in force, the chief executive must make the decision referred to in subsection (1) within the period of time prescribed in those regulations.
- “(3) The chief executive may require further reasonable information in respect of an application for a national multiple-use approval before making the decision referred to in subsection (1), and any prescribed period of time within which that decision must be made is suspended until the chief executive receives that information.

“30F Issue of national multiple-use approval

- “(1) The chief executive must issue a national multiple-use approval if he or she is satisfied, on reasonable grounds, that—
 - “(a) the application meets the requirements of section 30B; and
 - “(b) the applicant has paid the prescribed fee (if any); and

- “(c) the application meets the prescribed eligibility criteria for a national multiple-use approval (if any); and
 - “(d) the application does not involve the use of a building method or product in relation to which the chief executive has publicly notified a ban under section 26; and
 - “(e) if building work were properly completed in accordance with the plans and specifications that accompanied the application, that building work would comply with the building code.
- “(2) A national multiple-use approval may be issued subject to—
- “(a) a waiver or modification of the building code; and
 - “(b) 1 or more conditions, including, but not limited to, conditions that the approval applies only—
 - “(i) in specified regions; or
 - “(ii) in specified climates or conditions; or
 - “(iii) to specified aspects of the building work; or
 - “(iv) if the building work complies with specified requirements.

“30G Refusal to issue national multiple-use approval

If the chief executive is not satisfied of the matters in section 30F, the chief executive must refuse to issue a national multiple-use approval and must give the applicant written notice of—

- “(a) the refusal; and
- “(b) the reasons for the refusal.

“30H Suspension or revocation of national multiple-use approval

- “(1) The chief executive may, at any time, suspend or revoke a national multiple-use approval, if the chief executive is satisfied that—
- “(a) the approval was obtained by fraud, misrepresentation, or the concealment of facts; or
 - “(b) the approval no longer meets the prescribed eligibility criteria for a national multiple-use approval; or
 - “(c) building work properly completed in accordance with the approval will no longer comply with the building code because of an amendment to the code.

- “(2) Before revoking or suspending a national multiple-use approval the chief executive must give the holder of the approval a reasonable opportunity to be heard.
- “(3) When suspending a national multiple-use approval, the chief executive must—
- “(a) give the holder of the approval a reasonable period to rectify the matter that led to the suspension of the national multiple-use approval; and
 - “(b) lift the suspension if the chief executive is satisfied that the holder of the approval has rectified the matter within that period.
- “(4) Despite subsections (1) and (3), the chief executive must not suspend or revoke a national multiple-use approval if—
- “(a) amendments are made to—
 - “(i) the prescribed eligibility criteria for a national multiple-use approval; or
 - “(ii) the building code; and
 - “(b) the national multiple-use approval no longer meets the eligibility criteria, or complies with the building code, solely as a result of those amendments.
- “(5) The limit in subsection (4) applies only during the period of 3 months after the date on which the amendments referred to in that subsection come into force.
- “(6) The chief executive must record the suspension or revocation of a national multiple-use approval in the register of national multiple-use approvals.”

10 Building consent authority must apply for project information memorandum

Section 31(2)(a) is amended by omitting “(in which case the territorial authority must issue the project information memorandum for the building work and provide a copy of the memorandum to the owner)”.

11 Content of project information memorandum

Section 35 is amended by inserting the following subsection before subsection (1):

- “(1AA) A project information memorandum must be issued in the prescribed form (if any).”

12 New section 36 substituted

Section 36 is repealed and the following section substituted:

“36 Territorial authority may issue development contribution notice

- “(1) This section applies if a territorial authority considers that a development contribution under the Local Government Act 2002 is payable by the owner.
- “(2) The territorial authority must issue a notice, in the prescribed form, to the effect that a code compliance certificate for the building work will not be issued unless the development contribution is paid (**development contribution notice**).
- “(3) The development contribution notice must be—
- “(a) attached to the project information memorandum; or
 - “(b) if no project information memorandum has been applied for, provided to the building consent authority.”

13 Territorial authority must attach additional certificate to project information memorandum

- (1) Section 37 is amended by omitting the heading and substituting the following heading: “**Territorial authority must issue certificate if resource consent required**”.
- (2) Section 37(1)(b) is amended by inserting “or an application for a building consent” after “memorandum”.
- (3) Section 37(2) is amended by omitting “attach to the project information memorandum” and substituting “issue”.
- (4) Section 37 is amended by adding the following subsection:
- “(3) The certificate must be—
- “(a) attached to the project information memorandum; or
 - “(b) if no project information memorandum has been applied for, provided to the building consent authority.”

14 New section 39 substituted

Section 39 is repealed and the following section substituted:

“39 Territorial authority must advise New Zealand Historic Places Trust in certain circumstances

- “(1) This section applies if—

- “(a) an application for a project information memorandum, or for a building consent, affects a registered historic place, historic area, wāhi tapu, or wāhi tapu area; and
 - “(b) the territorial authority has not previously advised the New Zealand Historic Places Trust about the building work to which that application relates.
- “(2) The territorial authority must advise the New Zealand Historic Places Trust within 5 days after receiving the application.”

15 How to apply for building consent

- (1) Section 45(1) is amended by inserting the following paragraph after paragraph (b):
- “(ba) if a national multiple-use approval has been issued in relation to some or all of the plans and specifications required under paragraph (b), be accompanied by—
 - “(i) a copy of that national multiple-use approval; and
 - “(ii) details of any proposed minor customisations; and”.
- (2) Section 45 is amended by repealing subsections (2), (4), and (5) and substituting the following subsections:
- “(2) If an application for a building consent is accompanied by plans and specifications that contain design work (relating to building work) that is design work of a kind declared by the Governor-General by Order in Council to be restricted building work for the purposes of this Act, that design work must be carried out or supervised by 1 or more licensed building practitioners who are licensed to carry out or supervise that work.
- “(3) The plans and specifications that contain the design work referred to in subsection (2) must be accompanied by a memorandum—
 - “(a) provided by 1 or more licensed building practitioners who carried out or supervised that design work; and
 - “(b) that identifies that design work; and
 - “(c) that states—
 - “(i) that the design work complies with the building code; or
 - “(ii) whether waivers or modifications of the building code are required and, if so, what those waivers or modifications are.

- “(4) An application for an amendment to a building consent must,—
- “(a) in the case of a minor variation, be made in accordance with section 45A; and
 - “(b) in all other cases, be made as if it were an application for a building consent, and this section, and sections 48 to 51 apply with any necessary modifications.”

16 New sections 45A and 45B inserted

The following sections are inserted after section 45:

“45A Minor variations to building consents

- “(1) An application for a minor variation to a building consent—
- “(a) is not required to be made in the prescribed form; but
 - “(b) must comply with all other applicable requirements of section 45.
- “(2) Sections 48 to 50 apply, with all necessary modifications, to an application for a minor variation.
- “(3) A building consent authority that grants a minor variation—
- “(a) must record the minor variation in writing; but
 - “(b) is not required to issue an amended building consent.

“45B Changes to plans and specifications that have national multiple-use approval

- “(1) When applying for a building consent in reliance on plans and specifications for which a national multiple-use approval has been issued, or for an amendment to such a building consent under section 45(4), changes may be made to those plans and specifications if—
- “(a) the changes are permitted under the terms of the national multiple-use approval; or
 - “(b) the changes are minor customisations permitted by regulations made under section 402(1)(kc).
- “(2) If any other changes are made to the plans and specifications referred to in subsection (1), the national multiple-use approval does not apply.”

17 Processing application for building consent

- (1) Section 48 is amended by repealing subsection (1) and substituting the following subsections:

- “(1) After receiving an application for a building consent that complies with section 45, a building consent authority must, within the time limit specified in subsection (1A),—
- “(a) grant the application; or
 - “(b) refuse the application.
- “(1A) The time limit is—
- “(a) if the application includes plans and specifications in relation to which a national multiple-use approval has been issued, within 10 working days after receipt by the building consent authority of the application; and
 - “(b) in all other cases, within 20 working days after receipt by the building consent authority of the application.”
- (2) Section 48(2) is amended by omitting “(1)” and substituting “(1A)”.

18 Issue of building consent

- (1) Section 51(1)(b)(i) is amended by inserting “(if any)” after “memorandum”.
- (2) Section 51(1) is amended by inserting the following paragraph after paragraph (b):
- “(ba) contain confirmation that the New Zealand Historic Places Trust has been notified under section 39 (if applicable); and”.
- (3) Section 51 is amended by repealing subsections (3) and (4) and substituting the following subsections:
- “(3) If a building consent authority does not, within the time limit for granting the building consent, receive from the territorial authority any document or information required for compliance with subsection (1)(b) or (ba), the building consent authority may grant the building consent despite that subsection.
- “(4) However, the building consent authority must, on receiving the document or information referred to in subsection (3), provide the owner with the document or information.”

19 Waiver or modification may only be granted by chief executive in certain cases

Section 69(3) is amended by adding “or that is contained in a national multiple-use approval”.

20 Conditions on building consents granted under section 72
Section 73(2) is amended by omitting “the project information memorandum” and substituting “any project information memorandum that has been issued and”.

21 Steps after notification
Section 74(1)(a) is amended by omitting “the project” and substituting “any project”.

22 Construction of building on 2 or more allotments
(1) Section 75(1)(a) is amended by inserting “or for a building consent” after “memorandum”.
(2) Section 75 is amended by repealing subsection (2) and substituting the following subsection:
“(2) The territorial authority must issue a certificate that states that, as a condition of the grant of a building consent for the building work to which the application relates, 1 or more of those allotments specified by the territorial authority (the **specified allotments**) must not be transferred or leased except in conjunction with any specified other or others of those allotments.”

23 Building consent must not be granted until condition is imposed under section 75
(1) Section 77(1) is amended by omitting “a certificate imposing the condition referred to in section 75(2)” and substituting “the certificate under section 75(2)”.
(2) Section 77 is amended by adding the following subsection:
“(5) The building consent authority must note, on the building consent, the condition imposed in the certificate.”

24 Registrar-General of Land must record entry on certificate of title when certificate is lodged under section 77
Section 78(1) is amended by omitting “in section 75(2)” and substituting “in that certificate”.

25 Appeals to District Court

- (1) Section 208(1)(b) is amended by adding “; or” and also by adding the following subparagraph:

“(iii) refuse to issue a national multiple-use approval.”

- (2) Section 208(2) is amended by adding “; or” and also by adding the following paragraph:

“(d) in the case of an appeal under subsection (1)(b)(iii), the applicant for the national multiple-use approval.”

26 Territorial authority must act as building consent authority for its district

Section 212 is amended by repealing subsection (3) and substituting the following subsection:

- “(3) A territorial authority must, in performing its functions as a building consent authority, provide to the New Zealand Fire Service Commission a copy of every application for a building consent of a kind specified by notice under section 46.”

27 Chief executive must keep registers

Section 273(1) is amended by inserting the following paragraph before paragraph (a):

“(aaa) a register of national multiple-use approvals.”

28 Purpose of registers

Section 274(a) is amended by inserting the following subparagraph before subparagraph (i):

“(iaa) in the case of the register of national multiple-use approvals, the names and contact details of the persons who have been issued with national multiple-use approvals, together with a description of each approval and any conditions that have been imposed; and”.

29 Building consent authority not liable

Section 392(1) is amended by inserting the following paragraph after paragraph (c):

“(ca) a current national multiple-use approval issued under section 30F (including, in any particular case, any

minor customisations permitted by regulations made under section 402(1)(kc):”.

30 Regulations: general

Section 402(1) is amended by inserting the following paragraphs after paragraph (k):

“(ka) prescribing eligibility criteria for national multiple-use approvals:

“(kb) prescribing the period of time within which the chief executive must decide, under section 30E(1), whether to issue a national multiple-use approval:

“(kc) defining the minor customisations that may be made to plans and specifications in relation to which a national multiple-use approval has been issued when incorporating those plans and specifications into a building consent:

“(kd) defining the minor variations that may be made to a building consent for the purposes of section 45A:”.

31 New section 402A inserted

The following section is inserted after section 402:

“402A Chief executive must review regulations made under section 402(1)(kb)

The chief executive must, within 2 years after the commencement of regulations made under section 402(1)(kb),—

“(a) review the prescribed period of time within which the chief executive must decide whether to issue a national multiple-use approval; and

“(b) prepare for the Minister a report on the findings of that review.”

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Notes

1 *General*

This is a reprint of the Building Amendment Act 2009. The reprint incorporates all the amendments to the Act as at 1 February 2010, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted.

For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*

Building Amendment Act 2009 Commencement Order 2009 (SR 2009/407)
