



Building (Earthquake-prone Building Deadlines and Other Matters) Amendment Act 2024

Public Act 2024 No 49
Date of assent 25 November 2024
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Building (Earthquake-prone Building Deadlines and Other Matters) Amendment Act 2024.

2 Commencement

This Act comes into force on the day after Royal assent.

Part 1

Amendments to principal Act

3 Principal Act

This Part amends the Building Act 2004.

Subpart 1—Amendments to Parts 1 and 2 of principal Act

4 Section 7 amended (Interpretation)

- (1) In section 7(1), insert in its appropriate alphabetical order:
- stand-alone building consent authority** means a building consent authority that is not—
- (a) a territorial authority; or
 - (b) a regional authority
- (2) In section 7(1), replace the definition of **seismic work** with:
- seismic work**, in relation to a building or part of a building that is subject to an EPB notice,—
- (a) means the building work required to ensure that the building or part is no longer earthquake-prone; and
 - (b) may include the demolition of a building or part of a building
- (3) After section 7(1), insert:
- (1A) A reference to a regional authority in paragraph (b) of the definition of stand-alone building consent authority is for the avoidance of doubt and does not limit the application of section 14(3), which provides, among other matters, that references in certain sections to territorial authorities include regional authorities.

*Amendments relating to levies***5 Section 58 replaced (Liability to pay levy: stand-alone building consent authority)**

Replace section 58 with:

58 Liability to pay levy: stand-alone building consent authority

- (1) A stand-alone building consent authority, on the grant of a building consent, becomes liable to the chief executive for the levy payable under section 53 in relation to the building work to which the building consent relates. (However, *see* section 61, which provides for a transfer of liability in respect of shortfalls caused by the failure of an applicant to pay a levy.)
- (2) A stand-alone building consent authority must pay the levy to the chief executive by the 20th day of the month following the month in which the relevant building consent was granted.
- (3) Every payment of the levy must be accompanied by a certificate of the stand-alone building consent authority, or of an officer or agent of the authority, that states that the payment is correct—
 - (a) according to the financial records of the authority; and

- (b) to the best of that person’s knowledge and belief.
- (4) A person who fails to comply with subsection (2)—
 - (a) commits an offence; and
 - (b) is liable on conviction,—
 - (i) in the case of an individual, to a fine not exceeding \$5,000;
 - (ii) in the case of a body corporate, to a fine not exceeding \$25,000.

6 Section 59 amended (Liability to pay levy: territorial authority)

In section 59(1), delete “or on receiving all or any of the information specified in section 238(1)(c)”.

7 Sections 60 to 62 replaced

Replace sections 60 to 62 with:

60 Building consent authority may retain part of levy

- (1) A building consent authority may retain 3% of the levies for which the authority is liable, under section 58 or 59, in any month.
- (2) Subsection (1) is subject to section 61.

61 Chief executive may recover unpaid levies from territorial authority or stand-alone building consent authority

- (1) The consequences specified in subsection (2) apply if a territorial authority or stand-alone building consent authority that is liable to pay levies to the chief executive under section 58(1) or 59(1) fails to pay the levies by the date referred to in section 58(2) or 59(2), as applicable.
- (2) The consequences are that—
 - (a) section 60(1) does not apply; and
 - (b) the chief executive may recover, as a debt due from the territorial authority, or, unless paragraph (c) applies, the stand-alone building consent authority, the amount of those levies and any interest on that amount calculated—
 - (i) in monthly instalments at the monthly basic lending rate of the Ministry’s bank; and
 - (ii) for the period of each month, or part of a month, starting on the date payment is due and ending on the date payment is made; but
 - (c) if a failure on the part of a stand-alone building consent authority to pay the levy arises from an applicant’s failure to pay the amount of levies and any interest on the amount calculated, the liability for the shortfall ceases to be the liability of that authority and—
 - (i) becomes instead the liability of the territorial authority for the district in which the relevant building consent was granted; and

(ii) may be recovered by that territorial authority under section 62(2);
and

(d) if a failure on the part of a stand-alone building consent authority to pay the levy arises for reasons other than an applicant's failure to pay the levy, then the liability for the shortfall remains that of the stand-alone building consent authority.

62 Territorial authority may recover unpaid levies from applicant for building consent

- (1) The consequence specified in subsection (2) applies if an applicant for a building consent fails to pay a levy or part of a levy under section 53 by the time referred to in section 53(2)(b)(ii).
- (2) The consequence is that the territorial authority, or, if the application was made to a stand-alone building consent authority, the territorial authority for the district in which the relevant building consent was granted, may recover, as a debt due from the applicant, the amount of those levies and any interest on that amount calculated—
 - (a) in monthly instalments at the monthly basic lending rate of the building consent authority's bank; and
 - (b) for the period of each month, or part of a month, starting on the date payment is due and ending on the date payment is made.
- (3) Any amount recovered under subsection (2)—
 - (a) must, as soon as practicable after it is recovered, be paid to the chief executive; and
 - (b) may be recovered by the chief executive from the territorial authority after the 20th day of the month following the month in which it was recovered by the territorial authority under subsection (2).

8 Section 63 amended (Chief executive may obtain information in order to assess amount of levy payable)

In section 63(2)(b), after "consent authority", insert "(including a stand-alone building consent authority, as applicable)".

9 Section 64 amended (Audit of issue of building consents for purpose of ascertaining payment of levy)

- (1) Replace section 64(1) with:
 - (1) A building consent authority must keep in safe custody all records of building consents granted by the building consent authority, including—
 - (a) the estimated value of the building work to which each consent relates; and
 - (b) the amount of any levy payable under section 53; and

- (c) the date of payment of the levy to the chief executive.
- (2) In section 64(2), replace “territorial authority” with “building consent authority” in each place.
- (3) In section 64(3), replace “territorial authority” with “building consent authority”.

Amendments relating to certificates of acceptance

10 Section 96 amended (Territorial authority may issue certificate of acceptance in certain circumstances)

- (1) In section 96(3), replace “This section” with “Subsection (1)”.
- (2) After section 96(3), insert:
- (4) However, if a certificate of acceptance for any work is issued under section 99, it is not necessary for any person to apply for a building consent in respect of that work.

Amendments relating to annual building warrant of fitness

11 Section 108 amended (Annual building warrant of fitness)

In section 108(7), after “subsection (3)(d)”, insert “and section 108A”.

12 New section 108A inserted (Duties of independently qualified person)

After section 108, insert:

108A Duties of independently qualified person

- (1) An independently qualified person must not state (whether in a building warrant of fitness or any other document) that the inspection, maintenance, or reporting procedures in a compliance schedule relating to a specified system (for example, a lift or ventilation system) have been complied with during the previous 12 months if those inspection, maintenance, or reporting procedures for that system have not been fully complied with during that period.
- (2) Every person who acts in breach of subsection (1) commits an offence.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that—
 - (a) the failure to comply with subsection (1) was due to—
 - (i) a reasonable mistake; or
 - (ii) reasonable reliance on information supplied to the defendant by another person; or
 - (b) the defendant took reasonable precautions and exercised due diligence to avoid the failure.
- (4) A person who commits an offence under subsection (1) is liable on conviction,—

- (a) in the case of an individual, to a fine not exceeding \$50,000;
- (b) in the case of a body corporate, to a fine not exceeding \$150,000.

Amendments relating to earthquake-prone buildings

13 Section 133AD amended (Meaning of low, medium, and high seismic risk)

In section 133AD(3)(b), replace “(see section 133AM)” with “(see sections 133AM, 133AMA, 133AMB, and 133AMC)”.

14 Section 133AE amended (Meaning of priority building)

In section 133AE(4)(b), replace “(see section 133AM)” with “(see sections 133AM, 133AMA, 133AMB, and 133AMC)”.

15 Section 133AL amended (Territorial authority must issue EPB notice for earthquake-prone buildings)

(1) Replace section 133AL(1) with:

(1) This section applies if—

- (a) a territorial authority makes any of the following decisions:
 - (i) determining under section 133AK or 133AY or clause 2 of Schedule 1AA that a building or part of a building is earthquake-prone; or
 - (ii) revoking an exemption under section 133AN; or
 - (iii) revoking an extension under section 133AO; or
 - (iv) determining under section 133AQ or 133AY that the earthquake rating of a building or part of a building that is subject to an EPB notice is different from the earthquake rating (if any) for the whole or part of the building that is stated in the notice or the EPB register; or
- (b) the deadline for completing seismic work on a building or part of a building is altered by section 133AMA; or
- (c) the deadline for completing seismic work on a building or part of a building is altered by an Order in Council referred to in section 133AMC.

(2) In section 133AL(2)(g), replace “(see section 133AM)” with “(see sections 133AM, 133AMA, 133AMB, and 133AMC)”.

16 Section 133AM amended (Deadline for completing seismic work)

(1) Replace the heading to section 133AM with “**Deadline for completing seismic work on or before 1 April 2024**”.

(2) Replace section 133AM(1) with:

- (1) The owner of a building or part of a building that is subject to an EPB notice must complete seismic work on the building or part on or before the deadline specified in this section if that deadline is on or before 1 April 2024.
- (3) Repeal section 133AM(4).

17 New sections 133AMA to 133AMC inserted

After section 133AM, insert:

133AMA Deadline for completing seismic work on or after 2 April 2024

- (1) This section applies if the owner of a building or part of a building is required (as a result of a relevant EPB notice issued before the commencement of this section) to complete seismic work on the building or part on or after 2 April 2024.
- (2) The owner of a building or part of a building that is subject to a relevant EPB notice specified in subsection (1) must complete seismic work on the building or part on or before the deadline specified in this section.
- (3) The deadline is the latter of—
 - (a) 4 years after the deadline specified in the relevant EPB notice;
 - (b) the date to which that deadline is extended by Order in Council referred to in section 133AMC.
- (4) In this section, **relevant EPB notice**—
 - (a) means the current or most recent EPB notice for the building or part of the building as at the commencement of this section; and
 - (b) includes a reissued EPB notice, for example, as a result of an extension granted under section 133AO or under clause 2 of Schedule 1AA.

133AMB Deadline for completing seismic work required on or after commencement of this section

- (1) This section applies if the owner of a building or part of a building is required (as a result of an EPB notice issued on or after the commencement of this section) to complete seismic work on or after the commencement of this section.
- (2) The owner of the building or part of the building must complete seismic work on the building or part on or before the deadline referred to in this section.
- (3) The deadline is the expiry of whichever of the following periods, as measured from the date of the first EPB notice issued for the building or the part of the building (rather than any replacement EPB notice), is applicable:
 - (a) in an area of low seismic risk, 35 years for any building; and
 - (b) in an area of medium seismic risk, 12 years and 6 months for a priority building and 25 years for any other building; and
 - (c) in an area of high seismic risk, 7 years and 6 months for a priority building and 15 years for any other building.

- (4) However, if the building or part of the building is a heritage building for which an extension is granted under section 133AO, the deadline is the expiry of the period of the extension, as measured from the deadline that would apply under subsection (3) if no extension were granted.
- (5) The deadline referred to in subsection (3) may be extended by Order in Council made in accordance with section 133AMC.

133AMC Extension of qualifying deadlines by Order in Council

- (1) The Governor-General may, by Order in Council made under section 402 on the recommendation of the Minister, extend all of the deadlines under both sections 133AMA and 133AMB before expiry of the deadline to be extended.
- (2) The deadlines under sections 133AMA and 133AMB may be extended once only by a period not exceeding 2 years.
- (3) This section is repealed on 2 April 2028.

18 Section 133AO amended (Owners of certain heritage buildings may apply for extension of time to complete seismic work)

In section 133AO(4), replace “133AM(2) or (3)(a)” with “133AM, 133AMA, 133AMB, or 133AMC”.

19 Section 133AS amended (Territorial authority may carry out seismic work)

In section 133AS(1), after “133AM”, insert “, 133AMA, 133AMB, or 133AMC”.

20 Section 133AU amended (Offences in relation to earthquake-prone buildings)

In section 133AU(1), after “133AM”, insert “, 133AMA, 133AMB, or 133AMC”.

21 Section 133BZA amended (Application of subparts 6, 6A, and 7 in designated areas)

In section 133BZA(3)(b), after “133AM”, insert “, 133AMA, 133AMB, or 133AMC”.

Amendment relating to dam compliance certificates

22 Section 150 amended (Owner of dam must supply annual dam compliance certificate)

Replace section 150(3) to (6) with:

- (3) A person commits an offence if the person—
 - (a) fails to supply to the regional authority a dam compliance certificate in accordance with subsection (2); or

- (b) supplies such a certificate, knowing that it is false or misleading in any respect.
- (4) A person who commits an offence against subsection (3)(a) is liable on conviction,—
 - (a) in the case of an individual, to a fine not exceeding \$20,000;
 - (b) in the case of a body corporate, to a fine not exceeding \$60,000.
- (5) A person who commits an offence against subsection (3)(b) is liable on conviction,—
 - (a) in the case of an individual, to a fine not exceeding \$50,000;
 - (b) in the case of a body corporate, to a fine not exceeding \$150,000.

Amendment relating to residential pools

23 Section 162D amended (Periodic inspections of residential pools)

Replace section 162D(1)(b) with:

- (b) small heated pools, except for small heated pools with a safety cover that—
 - (i) complied with the building code when the cover was installed; or
 - (ii) complies with the building code, as it currently provides.

Amendment relating to functions, duties, and powers of territorial authorities generally

24 Section 219 amended (Territorial authority may impose fee or charge and must collect levy)

After section 219(1), insert:

- (1A) Despite subsection (1), a territorial authority may not impose a fee or charge for reissuing an EPB notice under section 133AL(2) following a change in a deadline for completing seismic work resulting from section 133AMA or an Order in Council referred to in section 133AMC.

Subpart 2—Amendments to other provisions of principal Act

Amendments relating to building consent authorities

25 Section 237 replaced (Application of subpart)

Replace section 237 with:

237 Application of subpart

This subpart applies to a stand-alone building consent authority.

26 Section 238 replaced (Duties of building consent authority)

Replace section 238 with:

238 Duties of stand-alone building consent authority

- (1) A stand-alone building consent authority must, in performing its functions under Part 2,—
 - (a) obtain a project information memorandum before granting a building consent; and
 - (b) provide to Fire and Emergency New Zealand a copy of every application for a building consent of a kind specified by notice under section 46; and
 - (c) provide to the territorial authority for the relevant district copies of,—
 - (i) in a case where the building consent authority accepts a building consent application, the information set out in section 238A(1) within 5 working days after the date of acceptance; and
 - (ii) in a case where the building consent authority decides whether or not to issue a building consent, the information set out in section 238A(2) within 5 working days after the date of the decision; and
 - (iii) in a case where the building consent authority decides whether or not to issue a code compliance certificate, the information in section 238A(3) within 5 working days after the date of the decision; and
 - (iv) the information listed in section 238A(4) within 5 working days after the date the information is issued or received by the stand-alone building consent authority.
- (2) A stand-alone building consent authority commits an offence if it fails to comply with subsection (1).
- (3) A stand-alone building consent authority that commits an offence under this section is liable on conviction to a fine not exceeding \$5,000 and, in the case of a continuing offence, to a further fine not exceeding \$500 for every day or part of a day during which the offence continues.

238A Information to be supplied by stand-alone building consent authority

- (1) The information required to be provided to the territorial authority for the relevant district under section 238(1)(c)(i) within the time set out in that subparagraph is—
 - (a) project information memoranda:
 - (b) the following information relating to the building consent:
 - (i) plans and specifications:
 - (ii) details of any licensed building practitioners engaged to carry out restricted building work:

- (iii) relevant correspondence and any other information that the building consent authority has received at the time when the application for a building consent was accepted:
 - (iv) any variation to plans and specifications that have national multiple use approval:
 - (c) if applicable, the intended life of the building:
 - (d) if applicable, statutory declarations provided by an owner-builder:
 - (e) any other information that is relevant to the application for a building consent and that was received when the application was accepted.
- (2) The information required to be provided to the territorial authority for the relevant district under section 238(1)(c)(ii) within the time set out in that subparagraph is—
- (a) any additional project information memoranda not received with an application for a building consent:
 - (b) the following information relating to the building consent or application for a building consent:
 - (i) a copy of the final building consent:
 - (ii) if the application was not granted, the fact it was not granted and the reasons for that decision:
 - (iii) requests, and responses to requests, for further information:
 - (iv) a copy of all correspondence between the building consent authority and the applicant during the consenting process, including any updated plans:
 - (c) details of any extension for considering an application for a building consent:
 - (d) any other relevant information not received at the time the application for a building consent was accepted that was subsequently received by the building consent authority for the purposes of processing the application.
- (3) The information required to be provided to the territorial authority for the relevant district under section 238(1)(c)(iii) within the time set out in that subparagraph is—
- (a) a copy of the code compliance certificate or the decision to refuse to issue that certificate:
 - (b) any minor variation to the building work agreed between the owner or builder and a building inspector:
 - (c) information relating to the outcome of the decision on whether to issue a code compliance certificate, including—
 - (i) all inspection outcomes:

- (ii) records of work and certificates of work provided by licensed building practitioners under section 45(2) or 88(1)(a):
 - (iii) energy work certificates:
 - (iv) the compliance schedules (where relevant):
 - (d) any additional relevant information received by the building consent authority between the decision to issue a building consent and the decision to issue a code compliance certificate.
- (4) The information required to be provided to the territorial authority for the relevant district under section 238(1)(c)(iv) within the time set out in that subparagraph is—
- (a) records of any information on any land or building received by the building consent authority from a statutory authority:
 - (b) details about any levy collected under section 53:
 - (c) the following information about the building consent authority:
 - (i) the name and contact address of the building consent authority:
 - (ii) the scope of accreditation of the building consent authority:
 - (iii) whether the building consent authority has adequate means to cover any civil liabilities that may arise in the performance of its functions, and, if so, what those means are:
 - (d) any other information that is relevant to the building consent or building consent authority that has not already been provided.

Amendment relating to registers

27 Section 275A amended (Content of EPB register)

In section 275A(1)(f), after “133AM”, insert “, 133AMA, 133AMB, or 133AMC”.

Other transitional provisions

28 Section 450A repealed (Transitional and savings provision for residential pools)

Repeal section 450A.

29 Schedule 1AA amended

In Schedule 1AA,—

- (a) insert the Part set out in the Schedule of this Act as the last Part; and
- (b) make all necessary consequential amendments.

30 Schedule 1 amended

In Schedule 1, clause 23, insert as subclause (2):

- (2) Subclause (1) does not include a fence or hoarding to restrict access to a tank or pool.

Part 2

Amendments to other legislation

Amendments to Building (Infringement Offences, Fees, and Forms) Regulations 2007

31 Principal regulations

Section 32 amends the Building (Infringement Offences, Fees, and Forms) Regulations 2007.

32 Schedule 1 amended

- (1) In Schedule 1, item relating to section 108(5)(aa) of the Building Act 2004, replace “250” with “1,000”.
- (2) In Schedule 1, item relating to section 108(5)(a) of the Building Act 2004, replace “250” with “1,000”.

Schedule
New Part 5 inserted into Schedule 1AA

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Part 5
**Provisions relating to Building (Earthquake-prone Building
Deadlines and Other Matters) Amendment Act 2024**

14 Provisions of amendment Act to apply only to new levies

- (1) The provisions of this Act, as amended by the amendment Act, apply only in respect of levies imposed on or after the commencement of the amendment Act.
- (2) In this clause and clauses 15 to 17, **amendment Act** means the Building (Earthquake-prone Building Deadlines and Other Matters) Amendment Act 2024.

15 EPB notices for earthquake-prone buildings

A territorial authority must not impose a fee for issuing any notice under section 133AL(2), or any other provision of this Act, notifying building owners of changes to deadlines for completing seismic work made by the amendment Act or an Order in Council made under that Act.

16 Clause 2 of this schedule

- (1) On the commencement of the amendment Act, clause 2 of this schedule continues to apply and—
 - (a) applications may continue to be made under clause 2(5)(a); and
 - (b) a territorial authority may take further action under clause 2(5) and (6), irrespective of whether an application was made under clause 2(5)(a) before, on, or after the commencement of the amendment Act.
- (2) If an extension of a deadline granted under clause 2 of this schedule is for a latter date than the extended deadline that would otherwise apply under any of sections 133AM to 133AMC, the extension granted under clause 2 applies.

17 Offences

- (1) If, before the commencement of the amendment Act, a person has been charged under this Act with an offence relating to the failure to complete seismic work on or before 1 April 2024, the proceedings in respect of the charge continue as if the amendment Act had not been enacted.
- (2) If a person is at any time alleged to have failed to complete required seismic work on or before 1 April 2024, the person may be charged under this Act

after the commencement of the amendment Act and the proceedings may be completed as if the amendment Act had not been enacted.

- (3) However, if an owner fails to comply with a deadline that expires on or after 2 April 2024 but before the commencement of the amendment Act, that person is deemed not to have committed an offence under section 133AU(1) of this Act.

Legislative history

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| 5 August 2024 | Introduction (Bill 70–1) |
| 8 August 2024 | First reading and referral to Transport and Infrastructure Committee |
| 29 October 2024 | Reported from Transport and Infrastructure Committee (Bill 70–2) |
| 5 November 2024 | Second reading |
| 13 November 2024 | Committee of the whole House |
| 21 November 2024 | Third reading |
| 25 November 2024 | Royal assent |

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