

# Have your say on major changes to building laws

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On 16 April, consultation opened on proposals to make the biggest changes to building laws since the Building Act came into force in 2004.

The reforms aim to address a number of long-standing problems in the building sector. They were developed following a series of meetings that the Ministry of Business, Innovation and Employment (MBIE) held with the building sector last year to find out more about the challenges it is facing.

The changes proposed are wide ranging and affect most parts of the building system. Here's a brief summary of the five key areas where changes are proposed:

## Building products and methods

With around 600,000 building products available on the New Zealand market, it's important that regulations help people choose the right product for the job. The current regulatory settings for building products have gaps and disincentives that make the system less efficient.

We're looking to widen the purpose of the Building Act so that building products and methods will be properly regulated. This will reflect the key role that products play in building work.

We're also proposing that building products and suppliers provide a minimum level of publicly accessible information about their products, so that building consent authorities (BCAs), designers, builders and consumers have access to better information. This will allow them to make better decisions about what products will comply with the Building Code.

MBIE is also looking to create an explicit responsibility on manufacturers and suppliers to ensure that a building product is fit for its intended purpose, so that they can be held accountable if it fails due to the way it was designed or manufactured.

Another proposal in this area is to amend the Building Act to allow for a regulatory framework that would future-proof the building system for Modern Methods of Construction (MMC), and make consenting an easier process.

## Occupational regulation

Occupational regulation aims to protect the public from harm by ensuring services are performed with reasonable care and skill. However, currently the occupational regulatory system doesn't capture all of the risks in the building process. It's not always clear that the people authorised to carry out restricted work are competent, and there are challenges to holding people to account for substandard work or poor conduct.

The three occupations where we see the most pressing need for change are licensed building practitioners (LBPs), engineers, and plumbers, gasfitters and drainlayers.

For LBPs, we want to broaden the definition of restricted building work to include more complex non-residential building work. The new definition would include all residential building work, including simple houses and mixed-use residential/commercial buildings and apartments. It would also include level three and some level two commercial and communal buildings.

We also want to raise the competence standard for LBPs to enter and remain in the LBP scheme. We're proposing a 'fit and proper person' test as a prerequisite for entry to the scheme. This would be supported by a code of ethics, to establish a clear standard against which to measure LBP behaviour.

For engineers, we're looking to establish a new voluntary certification scheme for engineers and phase out Chartered Professional Engineer (CPEng).

We also plan to restrict who can carry out or supervise safety-critical engineering work within the building sector. This would cover all medium- to high-complexity work and be triggered by factors such as building size, use and location. We also propose to establish a new licensing scheme to regulate who can carry out or supervise engineering work that has been restricted.

The proposed changes for plumbers, gasfitters and drainlayers are comparatively minor – they include repealing the sanitary plumbing exemption for the homeowners in certain areas and rural districts, and the exemptions for restricted sanitary plumbing, gasfitting and drainlaying work under

supervision.

## Risk and liability

We know that building work doesn't always go right, and that fairer outcomes are needed when things go wrong.

We're proposing that builders be required to offer clients a guarantee or insurance product that would cover the home or renovation for 10 years, even if the builder is no longer in business. The product would be linked to the home via the Land Information Memorandum (LIM) and would transfer to the new owner if the home is sold. Homeowners could choose to opt out of purchasing the product.

We are also proposing to leave the liability settings for BCAs unchanged at this stage.

## Building levy

The building levy is payable by building owners or developers on successful building consent applications for projects that are worth more than a specified amount. The revenue from the levy is used to fund a range of MBIE functions and activities under the Building Act.

The current levy is higher than it needs to be, so we're proposing to reduce it from \$2.01 to \$1.50, to bring it in line with Treasury's best practice guidelines. So, for example, on a \$310,000 private house development, the levy bill would reduce from \$623 to \$465.

We're also proposing to standardise the threshold that the levy applies to at \$20,444. Therefore it will cost homeowners or developers \$1.50 per every \$20,444 spent on the build. This lower threshold will mean fewer consent applications would incur the levy.

We're also planning to amend the Building Act to enable MBIE's Chief Executive to spend the levy on broader stewardship of the sector, which would support medium- to long-term improvements to the building regulatory system, as well as monitoring and oversight.

## Offences, penalties and public notification

We want to make sure that enforcement agencies have enough time to investigate possible offences, so we propose to extend the time to lay a charge under the Building Act from six months to 12 months.

To ensure the consequences are fair in proportion to the offence, we are proposing to increase maximum financial penalties for both individuals and organisations. There would be higher maximum penalties for organisations than for individuals.

Currently, penalties have uneven impacts on individuals versus organisations. Higher penalties for organisations will provide stronger incentives for them to comply. This will make our penalty regime more aligned with similar regimes, such as that of WorkSafe.

## Next steps

We want to hear your thoughts on the proposals. To make a submission, [fill out our survey \(https://www.research.net/r/building-reform\)](https://www.research.net/r/building-reform) or [download the questions form \[DOCX 213KB\]. \(https://www.mbie.govt.nz/assets/16fb0e4edc/building-system-legislative-reform-submission-form.docx\)](https://www.mbie.govt.nz/assets/16fb0e4edc/building-system-legislative-reform-submission-form.docx)

Consultation closes on 16 June, so this is your last chance to make sure your views are considered – don't miss out!

You can also sign up to receive updates about the building reform programme by [joining the mailing list. \(https://confirmsubscription.com/h/r/DEFBF2CA344DF6DB2540EF23F30FEDED\)](https://confirmsubscription.com/h/r/DEFBF2CA344DF6DB2540EF23F30FEDED)