

## New maximum penalties and time frames are now in effect

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Last updated: 11 June 2021

From 8 June 2021, changes have come into effect that will help improve compliance, deter poor or illegal behaviour and strengthen the enforcement of the building regulatory system to ensure that buildings are safe and the public are protected from harm.



## The new changes

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From 8 June, 2021, the following changes have come into effect:

- The timeframe to investigate a potential offence against the Building Act and file a charge has doubled from six to 12 months.
- Maximum penalties on conviction have been increased to a level that reflects the seriousness of the offences.
- Some maximum penalties are set differently for individuals than those for organisations.

Changes to public notification and the building levy have also come into effect. These changes allow:

- the Chief Executive of MBIE to spend the Building Levy on a broader range of functions under other relevant legislation to improve MBIE's ability to monitor, oversee or improve the performance of the building sector
- public notifications to be carried out online rather than requiring notifications to be published in daily newspapers.

## New timeframes to investigate Building Act offences

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From 8 June, 2021, enforcement agencies (MBIE, territorial authorities, regional authorities and other authorised people) have 12 months (increased from six months) to file a charging document for an offence against the Building Act from the date that an offence becomes known, or from when the agency could not justify having missed an offence.

To report a Building Act offence, visit 'formal complaints' (<https://www.building.govt.nz/resolving-problems/resolution-options/formal-complaints/>).

## Offences committed prior to 8 June, 2021

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The new penalties and investigation timeframes will apply to any offences committed after 8 June 2021. Any offences committed before this date will be subject to the previous maximum penalties, and a 6-month investigation period, even if the investigation starts after 8 June 2021:

Date offence committed	Timeframe available to investigate and file a charge	Penalty Amount
Day before 8 June 2021 or earlier	6 months	Old maximum penalty
8 June 2021 onwards	12 months	New maximum penalty

## The new penalties

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The intent for these increased maximum penalties is based on the following factors:

- the harm these offences may do to an individual or the wider public
- the possible harm to the integrity of the building regulatory system
- the fairness of the fine and its appropriateness in creating compliance
- how other penalty regimes responded to similar offences.

Changes to offences/penalties apply to	Old maximum fine liable upon conviction	New maximum fine liable upon conviction for an individual	New maximum penalty liable upon conviction for organisations
s326(1) - Failing to comply with summons (by the Board)	\$2,000	\$5,000	

Offences related to administrative obligations where the potential harm to the public and the building regulatory system is considered low or minor.

Changes to offences/penalties apply to	Old maximum fine liable upon conviction	New maximum fine liable upon conviction for an individual	New maximum penalty liable upon conviction for organisations
s42(2) – Failing to apply for a certificate of acceptance for urgent work as soon as practicable after completion of building work.	\$5,000	\$5,000	\$25,000
s58(3) - Building Consent Authority (BCA) failing to pay building levy to the Territorial Authority (TA).	\$5,000	\$5,000	\$25,000
s63(4) – Applicant for a building consent, a BCA or TA failing to provide information to the Chief Executive (CE) in order to assess amount of building levy payable based on estimated value if building work.	\$5,000	\$5,000	\$25,000
s114(3) – Owner failing to give written notice to the territorial authority of proposed changes to use, extension of life or subdivision of buildings.	\$5,000	\$5,000	\$25,000
s270(7) – Failing to provide any information on matter that the product certification body requires relating to the annual review of a product certificate.	\$5,000	\$5,000	\$25,000
s314(1) – A person commits an offence if the person holds himself or herself out as a person who is licensed to carry out or supervise building work or building inspection work, or building work or building inspection work of a certain type, while not being so licensed.	\$5,000	\$5,000	

Offences where the offender has stricter defined responsibilities under the Act, where lives could be put at risk or the potential harm to the regulatory system is considered high.

Changes to offences/penalties apply to	Old maximum fine liable upon conviction	New maximum fine liable upon conviction for an individual	New maximum penalty liable upon conviction for organisations
s138(4) - Dam owner failing to comply with a direction from a regional authority to have a dam classification audited by a recognised engineer.	\$5,000	\$20,000	\$60,000
s150(4)(a) - Dam owner knowingly failing to display a dam compliance certificate required to be displayed.	\$5,000	\$20,000	\$60,000
s150(4)(c) - Dam owner knowingly displaying a dam compliance certificate other than in accordance with section 150.	\$5,000	\$20,000	\$60,000
s168(1AA) - Failing to comply with a notice to fix a means of restricting access to a residential pool.	\$5,000	\$20,000	\$60,000
s207B - Failing to comply with CE notice for provision of information.	\$5,000	\$20,000	\$60,000
s365(1) - Intentionally failing to comply with direction of authorised person.	\$5,000	\$20,000	\$60,000
s369(1)(a)(b) - Knowingly making false or misleading statement or knowingly making a material omission in any communication, application or document that is required to be made or given under the Act.	\$5,000	\$20,000	\$60,000

Offences that require prosecution to prove the wilful intention of the offender to commit the offence, carry a greater risk to lives or where there is impersonation of authority figures.

Changes to offences/penalties apply to	Old maximum fine liable upon conviction	New maximum fine liable upon conviction for an individual	New maximum penalty liable upon conviction for organisations
s371D(1) - Impersonating or falsely pretending to be an enforcement officer named in a warrant issued under section 371B(3).	\$5,000	\$50,000	
s206(3)(b) - Impersonating or falsely pretending to be a person named in a warrant supplied by the chief executive to enter land or buildings.	\$5,000	\$50,000	
s225(1) - Impersonating or falsely pretending to be an authorised officer.	\$5,000	\$50,000	
s150(4)(b) - Dam owner knowingly displaying a false or misleading dam compliance certificate.	\$5,000	\$50,000	\$150,000
s368(1)(a) - Wilfully removing or defacing a notice published under the Act or inciting another person to do so.	\$5,000	\$50,000	\$150,000

Act or including another person to do so.	Old maximum fine liable upon conviction	New maximum fine liable upon conviction for an individual	New maximum penalty liable upon conviction for organisations
<b>Changes to offences/penalties apply to</b> s366(1)(a) - Impersonating a building consent authority or regional authority, or an officer or employee of a building consent authority or regional authority.	\$5,000	\$50,000	\$150,000
s367(1) - Wilfully obstructing, hindering, or resisting a person executing powers conferred to that person under the Act or its regulations.	\$5,000	\$50,000	\$150,000
s371D(1) - Impersonating or falsely pretending to be an enforcement officer and doing or attempting to do any of the things mentioned in section 271D(3) from a regional authority to have a dam safety assurance programme audited by a recognised engineer.	\$10,000	\$50,000	\$150,000
s266(3)(b) - Impersonating or falsely pretending to be a person named in a warrant supplied by the chief executive to enter land or buildings.	\$5,000	\$50,000	\$150,000
s85(1) - Person who is not Licensed building Practitioner (LBP) carrying out restricted building work without supervision of LBP who is licensed to carry out that work.	\$20,000	\$50,000	\$150,000
s225(1) - Person holding himself or herself out as being licensed officer carrying out that work.	\$5,000	\$50,000	\$150,000
s150(4)(b) - Dam owner, knowingly displaying a false or misleading dam compliance certificate.	\$20,000	\$50,000	\$150,000
s85(2) A LBP carrying out restricted work or supervising restricted work that he/she is not licensed to carry out or supervise.	\$20,000	\$50,000	\$150,000
s368(3)(a) - Owner, by the means of or defacing a notice published under the Building Consent Authority when owner-builder carries out restricted building work.	\$20,000	\$50,000	\$150,000
s366(1)(a) - Impersonating a building consent authority or regional authority, or an officer or employee of a building consent authority or regional authority.	\$5,000	\$50,000	\$150,000
s314(1) - Person holding himself or herself out as being licensed to do or supervise building work or building inspection work while not being so licensed.	\$20,000	\$50,000	\$150,000
s367(1) - Wilfully obstructing, hindering, or resisting a person executing powers conferred to that person under the Act or its regulations.	\$5,000	\$50,000	\$150,000
s80(1)(A) - Engaging another person to carry out or supervise restricted building work if that person knows that the person is not a recognised engineer.	\$20,000	\$50,000	\$150,000
s125(4) - Dam owner failing to comply with a direction from a regional authority to have a dam safety assurance programme audited by a recognised engineer.	\$10,000	\$50,000	\$150,000
s108(5)(a) - Failing to display a building warrant of fitness required to be displayed.	\$20,000	\$50,000	\$150,000
s85(1) - Person who is not Licensed building Practitioner (LBP) carrying out restricted building work without supervision of LBP who is licensed to carry out that work.	\$20,000	\$50,000	\$150,000
s168(5)(b) - Displaying a false or misleading building warrant of fitness.	\$20,000	\$50,000	\$150,000
s85(2) A LBP carrying out restricted work or supervising restricted work that he/she is not licensed to carry out or supervise.	\$20,000	\$50,000	\$150,000
s108(5)(c) - Displaying a building warrant of fitness other than in accordance with section 108.	\$20,000	\$50,000	\$150,000
s87A(5) - Owner-builder failing to provide prescribed notice to building consent authority when owner-builder carries out restricted building work.	\$20,000	\$50,000	\$150,000
s314(1) - Person holding himself or herself out as being licensed to do or supervise building work or building inspection work while not being so licensed.	\$20,000	\$50,000	\$150,000
s134(C) - Dam owner failing to classify dam according to the potential impact of a failure of the dam on persons, property and the environment.	\$20,000	\$50,000	\$150,000
s80(1)(A) - Engaging another person to carry out or supervise restricted building work if that person knows that the person is not a licensed building practitioner licensed to carry out or supervise the work.	\$20,000	\$50,000	\$150,000
s140(5) - Building owner failing to prepare, to arrange the preparation of, or submit a dam safety assurance programme and submit it for audit.	\$20,000	\$50,000	\$150,000
s108(5)(a) - Failing to display a building warrant of fitness required to be displayed.	\$20,000	\$50,000	\$150,000
s362(5) - Knowingly making a statement that is false or misleading in a material particular or knowingly making a material omission in any communication or document required to be made or given relating to entering a residential building contract.	\$20,000	\$50,000	\$150,000
s108(5)(b) - Displaying a false or misleading building warrant of fitness.	\$20,000	\$50,000	\$150,000
s27(2) - Using a building method or product in breach of ban under section 26.	\$20,000	\$300,000	\$1,500,000
s108(5)(c) - Displaying a building warrant of fitness other than in accordance with section 108.	\$20,000	\$50,000	\$150,000
s128A(1) - Failing to comply with a notice issued under section 124(2).	\$200,000	\$300,000	\$1,500,000
s133AU(2)(3) - Failing to attach an EPB notice or an EPB exemption notice on or adjacent to a building; or failing to notify the territorial authority on a dangerous, earthquake-prone, or insanitary building.	\$20,000	\$50,000	\$150,000
s133A(4) - Owner of a building or a part of a building that is subject to an EPB notice failing to complete seismic work on the building or part by the deadline that applies under section 133AM.	\$200,000	\$300,000	\$1,500,000
s134(C) - Dam owner failing to classify dam according to the potential impact of a failure of the dam on persons, property and the environment.	\$20,000	\$50,000	\$150,000
s134(9) - Dam owner failing to comply with a notice, within the time stated in the notice, requiring work to be carried out on a dangerous	\$200,000	\$300,000	\$1,500,000

Charges to offences/penalties apply to	Old maximum penalty upon conviction	New maximum penalty upon conviction for individual	New maximum penalty liable for organisations
s199(1)(2) - Performing functions of building consent authority or regional authority if person not registered, etc.	\$200,000	\$200,000	\$1,500,000
s362V(1) - Offence for commercial on-seller to transfer household unit without code compliance certificate.	\$5,000	\$50,000	
s371D(1) - Impersonating or falsely pretending to be an enforcement officer named in a warrant issued under section 371B(3).	\$5,000	\$50,000	
s206(3)(b) - Impersonating or falsely pretending to be a person named in a warrant supplied by the Chief Executive to enter land or buildings.	\$5,000	\$50,000	
s225(1) - Impersonating or falsely pretending to be an authorised officer.	\$5,000	\$50,000	
s150(4)(b) - Dam owner knowingly displaying a false or misleading dam compliance certificate.	\$5,000	\$50,000	\$150,000
s368(1)(a) - Wilfully removing or defacing a notice published under the Act or inciting another person to do so.	\$5,000	\$50,000	\$150,000
s366(1)(a) - Impersonating a building consent authority or regional authority, or an officer or employee of a building consent authority or regional authority.	\$5,000	\$50,000	\$150,000
s367(1) - Wilfully obstructing, hindering, or resisting a person executing powers conferred to that person under the Act or its regulations.	\$5,000	\$50,000	\$150,000
s145(4) - Dam owner failing to comply with a direction from a regional authority to have a dam safety assurance programme audited by a recognised engineer.	\$10,000	\$50,000	\$150,000
s85(1) - Person who is not Licensed building Practitioner (LBP) carrying out restricted building work without supervision of LBP who is licensed to carry out that work.	\$20,000	\$50,000	
s85(2) A LBP carrying out restricted work or supervising restricted work that he/she is not licensed to carry out or supervise.	\$20,000	\$50,000	
s87A(5) - Owner-builder failing to provide prescribed notice to building consent authority when owner-builder carries out restricted building work.	\$20,000	\$50,000	
s314(1) - Person holding himself or herself out as being licensed to do or supervise building work or building inspection work while not being so licensed.	\$20,000	\$50,000	
s86(1)(1A) - Engaging another person to carry out or supervise restricted building work if that person knows that the person is not a licensed building practitioner licensed to carry out or supervise the work.	\$20,000	\$50,000	\$150,000
s108(5)(a) - Failing to display a building warrant of fitness required to be displayed.	\$20,000	\$50,000	\$150,000
s108(5)(b) - Displaying a false or misleading building warrant of fitness.	\$20,000	\$50,000	\$150,000
s108(5)(c) - Displaying a building warrant of fitness other than in accordance with section 108.	\$20,000	\$50,000	\$150,000
s133AU(2)(3)- Failing to attach an EPB notice or an EPB exemption notice on or adjacent to a building; or failing to notify the territorial authority when an EPB notice or an EPB exemption notice ceases to be attached on or adjacent to a building or becomes illegible.	\$20,000	\$50,000	\$150,000
s134(C) - Dam owner failing to classify dam according to the potential impact of a failure of the dam on persons, property and the environment.	\$20,000	\$50,000	\$150,000