

# Building Act 1991

1991 No 150

## AMENDMENTS

1992 No 126

1993 No 99

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## An Act to consolidate and reform the law relating to building and to provide for better regulation and control of building

[20 December 1991

BE IT ENACTED by the Parliament of New Zealand as follows:

### 1 Short Title and commencement

- (1) This Act may be cited as the Building Act 1991.
- (2) Sections 2, 3, 4, 6, 9 to 14, 22, 23, 48, 49, and 93 of, and Schedule 1 to, this Act shall come into force on the 15th day of February 1992.
- (3) Except as provided in subsection (2) of this section, this Act shall come into force on the 1st day of July 1992.

## Part 1 Preliminary

(s 2 to s 5)

### 2 Interpretation

In this Act, unless the context otherwise requires,—

**Accreditation certificate** means an accreditation certificate issued under Part 8 of this Act:

**Alter**, in relation to a building, includes to rebuild, re-erect, repair, enlarge and extend; and **alteration** has a corresponding meaning:

**Amenity** means an attribute of a building which contributes to the health, physical independence, and well being of the building's users but which is not associated with disease or a specific illness:

**Authority** means the Building Industry Authority established under Part 3 of this Act:

**Building certifier** means a person approved as a building certifier by the Authority under Part 7 of this Act:

**Building code** means the building code made under Part 6 of this Act:

**Building consent** means a consent to carry out building work granted by a territorial authority under Part 5 of this Act; and includes all conditions to which the consent is subject:

**Building work** means work for or in connection with the construction, alteration, demolition, or removal of a building; and includes sitework:

**Code compliance certificate** means a certificate to that effect issued by a territorial authority or a building certifier pursuant to section 43 of this Act:

**Compliance schedule** means a compliance schedule issued under section 44 of this Act:

**Construct**, in relation to a building, includes to build, erect, prefabricate, and relocate; and **construction** has a corresponding meaning:

[**Crown organisation** has the same meaning as in section 4 of the Crown Organisations (Criminal Liability) Act 2002]

[**employee** includes,—

- (a) in relation to any Crown organisation, the chief executive or principal officer (however described) of that organisation ...; and
- (b) in relation to the New Zealand Defence Force, a member of the Armed Forces]

**[Energy work means—**

- (a) Gasfitting;
- (b) Prescribed electrical work:]

**[Energy work certificate** means a certificate of the kind referred to in paragraph (e) or paragraph (f) of section 50(1) of this Act:]

**Falsework used in the course of the construction process** means any temporary structure or framework used in construction work to support materials, equipment, or any assembly; and includes the use of steel tubes, adjustable steel props, proprietary frames, or any other means to support a permanent structure during its construction until it becomes self-supporting; but does not include scaffolding or cranes for support:

**Fire hazard** means the danger in terms of potential harm and degree of exposure arising from the start and spread of fire and the smoke and gases that are thereby generated:

**Functional requirements**, in relation to a building, means those functions which a building is to perform for the purposes of this Act:

**[Gasfitting** has the same meaning as in section 2 of the Plumbers, Gasfitters, and Drainlayers Act 1976:]

**Household unit** means any building or group of buildings, or part of any building or group of buildings, used or intended to be used solely or principally for residential purposes and occupied or intended to be occupied exclusively as the home or residence of not more than one household; but does not include a hostel or boardinghouse or other specialised accommodation:

**Intended use** of a building includes—

- (a) Any reasonably foreseeable occasional other use that is not incompatible with the intended use; and
- (b) Normal maintenance; and
- (c) Activities taken in response to fire or any other reasonably foreseeable emergency—

but does not include any other maintenance and repairs or rebuilding:

**Means of escape from fire**, in relation to a building which has a floor area, means continuous unobstructed routes of travel from any part of a floor area of that building to a place of safety; and includes all active and passive protection features required to assist in protecting people from the effects of the fire in the course of their escape:

**Minister** means the Minister of Internal Affairs:

**Network utility operator** means a person who—

- (a) Undertakes the distribution or transmission by pipeline of natural or manufactured gas, petroleum, or geothermal energy; or
- [(b) Is an electricity operator or an electricity distributor as defined by section 2(1) of the Electricity Act 1992 for the purposes of any works as defined by that Act:]
- (c) Undertakes the piped distribution of potable water for supply; or
- (d) Is the operator of a sewerage system or a stormwater drainage system:

**Other property** means any land or buildings or part thereof which are—

- (a) Not held under the same allotment; or
- (b) Not held under the same ownership—

and includes any road:

**Owner**, in relation to any land, including any buildings on that land, means the person who is for the time being entitled to the rack rent thereof or who would be so entitled if the land were let to a tenant at a rack rent; and, for the purposes of sections 30, 33, and 43 of this Act, includes the—

- (a) Owner of the fee simple of the land; and
- (b) Any person who has agreed in writing, whether conditionally or unconditionally, to purchase the land or any leasehold estate or interest in the land, or to take a lease of the land, while the agreement remains in force—

and **ownership** has a corresponding meaning:

**Performance criteria**, in relation to a building, means those qualitative or quantitative criteria which the building is to satisfy in performing its functional requirements:

**Person** includes the Crown, a corporation sole, and also a body of persons, whether corporate or unincorporate:

**Plans and specifications** means the drawings, specifications, and other documents according to which a building is proposed to be constructed, altered, demolished, or removed, including proposed procedures for inspection during construction, alteration, demolition, or removal, and also including (in respect of construction or alteration)—

- (a) The intended use of the building; and
- (b) The design features or systems which the applicant considers will be required to be included in any compliance schedule issued in terms of section 44 of this Act; and
- (c) The proposed procedures for inspection and routine maintenance for the purposes of that compliance schedule in respect of those design features or systems:

**[Prescribed electrical work** has the same meaning as in section 2(1) of the Electricity Act 1992:]

**Producer statement** means any statement supplied by or on behalf of an applicant for a building consent or by or on behalf of a person who has been granted a building consent that certain work will be or has been carried out in accordance with certain technical specifications:

**Property** includes land, buildings, and goods; but does not include incorporeal forms of property:

**Regulations** means regulations in force under Part 6 of this Act:

**Scaffolding used in the course of the construction process** means any structure, framework, swinging stage, suspended scaffolding, or boatswain's chair, of a temporary nature, used or intended to be used for the support or protection of workers engaged in or in connection with construction work for the purpose of carrying out that work, or for the support of materials used in connection with any such work; and includes any plank, coupling, fastening, fitting, or device used in connection with the construction, erection, or use of scaffolding:

**[Secretary** has the same meaning as in section 2(1) of the Electricity Act 1992 or in section 2(1) of the Gas Act 1992, as the case may require:]

**Sitework** means work on a building site, including earthworks, preparatory to or associated with the construction, alteration, demolition, or removal of a building;

**Territorial authority** has the meaning ascribed to it by [section 5(1) of the Local Government Act 2002]; and includes any organisation which is authorised to permit structures pursuant to section 12(1)(b) of the Resource Management Act 1991.

### 3 Meaning of “building”

- (1) In this Act, unless the context otherwise requires, the term **building** means any temporary or permanent movable or immovable structure (including any structure intended for occupation by people, animals, machinery, or chattels); and includes any mechanical, electrical, or other system, and any utility systems, attached to and forming part of the structure whose proper operation is necessary for compliance with the building code; but does not include—
- (a) Systems owned or operated by a network utility operator for the purpose of reticulation of other property; or
  - [(b) Cranes, including any cranes as defined in any regulations in force under the Health and Safety in Employment Act 1992; or]
  - (c) Cablecars, cableways, ski tows, and other similar stand-alone machinery systems, whether or not incorporated within any other structure; or
  - [(d) Any description of vessel, boat, ferry, or craft used in navigation, whether or not it has any means of propulsion, and regardless of that means; nor does it include—
    - (i) A barge, lighter, or other like vessel:
    - (ii) A hovercraft or other thing deriving full or partial support in the atmosphere from the reactions of air against the surface of the water over which it operates:
    - (iii) A submarine or other thing used in navigation while totally submerged; or]
  - (e) Vehicles and motor vehicles (including vehicles and motor vehicles as defined in [section 2(1) of the Land Transport Act 1998]), but not including vehicles and motor vehicles, whether movable or immovable, which are used exclusively for permanent or long-term residential purposes; or
  - [(ea) Aircraft, including any machine that can derive support in the atmosphere from the reactions of the air otherwise than by the reactions of the air against the surface of the earth; or]
  - (f) Containers as defined in section 2 of the Dangerous Goods Act 1974; or
  - (g) Magazines as defined in section 2 of the Explosives Act 1957; or
  - (h) Scaffolding used in the course of the construction process; or
  - (i) Falsework used in the course of the construction process.
- (2) For the purposes of [Part 9 of this Act,] a building consent, a code compliance certificate, and a compliance schedule the term “building” also includes—
- (a) Any part of a building; and
  - (b) Any 2 or more buildings which, on completion of any building work, are intended to be managed as 1 building with a common use and a common set of ownership arrangements.
- (3) For the purposes of subsection (2) of this section, where any utility system or any part of any utility system—
- (a) Is external to the building; and
  - (b) Is also connected to or is intended to be connected to—
    - (i) A network under the control of a network utility operator; or
    - (ii) Some other facility which is able to provide for the successful functioning of the utility system in accordance with its intended design—

that utility system or that part of the utility system shall be deemed to be part of a building.

- (4) Notwithstanding the provisions of subsection (3) of this section, where a septic tank is connected to a building utility system the septic tank shall be deemed to form part of that building utility system.

### 4 Meaning of “allotment”

- (1) In this Act, the term **allotment** means any parcel of land that is a continuous area of land and whose boundaries are shown on a survey plan that is—
- (a) Subject to the Land Transfer Act 1952 and is comprised in one certificate of title or for which one certificate of title could be issued under that Act; or
  - (b) Not subject to that Act and was acquired by its owner under one instrument of conveyance.
- (2) For the purpose of subsection (1) of this section, the subdivision shown on the survey plan referred to in that subsection is—
- (a) The subdivision approved by way of a subdivision consent granted under the Resource Management Act 1991; or
  - (b) The subdivision allowed or granted under any other Act.
- (3) For the purposes of subsection (1) of this section, an allotment shall be deemed to be a continuous area of land notwithstanding that part of it is physically separated from any other part by a road or in any other manner whatsoever, unless the division of the allotment into such parts has been allowed by a subdivision consent granted under the Resource Management Act 1991 or a subdivision approval under any former enactment relating to the subdivision of land.

### 5 Act to bind the Crown

- (1) Except as provided in subsections (2)[, (3), and (4)] of this section, this Act shall bind the Crown.
- (2) This Act does not apply to any Crown building or any Crown building work where the Minister of Defence certifies in writing that the building or the building work is necessary for reasons of national security.
- [(3) An instrument of the Crown may be prosecuted for an offence against this Act if, and only if,—
- (a) that instrument is a Crown organisation; and
  - (b) the offence is alleged to have been committed by the Crown organisation; and

- (c) the proceedings are instituted—
    - (i) against the Crown organisation in its own name, and do not cite the Crown as a defendant; and
    - (ii) in accordance with the Crown Organisations (Criminal Liability) Act 2002.]
- [(4) The Crown may not be prosecuted for an offence against this Act, except to the extent and in the manner provided in subsection (3).]

## Part 2

### Purposes and principles

(s 6 to s 9)

#### 6 Purposes and principles

- (1) The purposes of this Act are to provide for—
  - (a) Necessary controls relating to building work and the use of buildings, and for ensuring that buildings are safe and sanitary and have means of escape from fire; and
  - (b) The co-ordination of those controls with other controls relating to building use and the management of natural and physical resources.
- (2) To achieve the purposes of this Act, particular regard shall be had to the need to—
  - (a) Safeguard people from possible injury, illness, or loss of amenity in the course of the use of any building, including the reasonable expectations of any person who is authorised by law to enter the building for the purpose of rescue operations and fire fighting in response to fire:
  - (b) Provide protection to limit the extent and effects of the spread of fire, particularly with regard to—
    - (i) Household units and other residential units (whether on the same land or on other property); and
    - (ii) Other property:
  - (c) Make provision in a building used for the storage or processing of significant quantities of hazardous substances to prevent significant adverse effects on the environment (whether within the immediate locality or otherwise) arising from an emergency involving fire within that building:
  - (d) Provide for the protection of other property from physical damage resulting from the construction, use, and demolition of any building:
  - (e) Provide, both to and within buildings [to which section 47A of this Act applies], means of access and facilities that meet the requirements of that Act to ensure that reasonable and adequate provision is made for people with disabilities to enter and carry out normal activities and processes in those buildings:
  - (f) Facilitate the efficient use of energy, in the case of new buildings, during the intended life of those buildings.
- (3) In determining the extent to which the matters provided for in subsection (1) of this section shall be the subject of control, due regard shall be had to the national costs and benefits of any control, including (but not by way of limitation) safety, health, and environmental costs and benefits.

#### 7 All building work to comply with building code

- (1) All building work shall comply with the building code to the extent required by this Act, whether or not a building consent is required in respect of that building work.
- (2) Except as specifically provided to the contrary in any Act, no person, in undertaking any building work, shall be required to achieve performance criteria additional to or more restrictive in relation to that building work than the performance criteria specified in the building code.

#### 8 Existing buildings not required to be upgraded

Except as specifically provided to the contrary in this Act, nothing in this Act shall be read as requiring any building, the construction of which was completed or commenced before the coming into force of Part 6 of this Act, to meet the requirements of the building code.

#### 9 Avoiding unreasonable delay

Every person who exercises or carries out functions, powers, or duties or is required to do anything under this Act for which no time limits are prescribed shall do so as promptly as is reasonable in the circumstances.

## Part 3

### Functions, powers, and duties of Building Industry Authority

(s 10 to s 23)

#### *Establishment and functions of Authority*

#### 10 Building Industry Authority

- (1) There is hereby established a body to be known as the Building Industry Authority.
  - (2) The Authority shall be a body corporate with perpetual succession and a common seal.
  - (3) The Authority shall be capable of—
    - (a) Acquiring, holding, and disposing of real and personal property:
    - (b) Entering into contracts:
    - (c) Suing and being sued:
    - (d) Doing and suffering all such things as bodies corporate may do and suffer.
- [(4) The Authority shall be a Crown entity for the purposes of the Public Finance Act 1989.]
- (5) The provisions of Schedule 1 to this Act shall have effect as to the constitution and proceedings of the Authority and other matters relating thereto.

#### 11 Membership of Authority

- (1) The Authority shall consist of not more than 8 members appointed by the Minister.

- (2) When considering whether a person is suitable to be appointed as a member of the Authority, the Minister shall have regard to the need to ensure that the Authority possesses a mix of knowledge and experience in matters coming before the Authority, including knowledge and experience in—
- (a) Building construction, architecture, engineering, and other building sciences:
  - (b) Economic, commercial, and business affairs:
  - (c) Consumer affairs and the provision of facilities for people with disabilities:
  - (d) Local government and resource management.

## 12 Functions of Authority

- (1) The Authority shall have the following functions under this Act:
- (a) After consultation with appropriate persons and organisations, advising the Minister on matters relating to building control:
  - (b) Approving documents for use in establishing compliance with the provisions of the building code:
  - (c) Determining matters of doubt or dispute in relation to building control:
  - (d) Undertaking reviews of the operation of territorial authorities and building certifiers in relation to their functions under this Act:
  - (e) Approving building certifiers:
  - (f) Granting accreditations of building products and processes:
  - (g) Disseminating information and providing educational programmes on matters relating to building control:
  - (h) Generally taking all such steps as may be necessary or desirable to achieve the purposes of this Act:
  - (i) Any other functions specified in this Act.
- (2) In carrying out its functions under subsection (1) of this section, the Authority shall consult with the New Zealand Fire Service Commission in respect of any of those functions which involve advice, approval, and determinations relating to—
- (a) Matters of fire safety and recognised fire-engineering practice; and
  - (b) Any appointment of a building certifier in respect of any provisions of the building code which relate to fire safety and recognised fire-engineering practice.
- (3) Subject to this Act, in the exercise of its functions and powers the Authority shall establish for its use, and for the use of building referees, procedures that are appropriate and fair in the circumstances and shall comply with the principles of natural justice.

## 13 Powers of Authority

- (1) The Authority shall have all powers that are reasonably necessary or expedient to enable it to perform its functions.
- (2) Without limiting subsection (1) of this section, the Authority may—
- (a) Purchase, take on lease, hire, or otherwise acquire any real or personal property, or any interest in any real or personal property:
  - (b) Improve, manage, develop, sell, lease, hire, or otherwise deal with or dispose of any real or personal property vested in the Authority:
  - (c) Accept, for the purposes of the Authority, money, land, or other property provided by any organisation or person by way of grant, subsidy, donation, gift, fee, subscription, or otherwise:
  - (d) Make grants or advances of money, on such conditions as it thinks fit, or pay any fee or subscription, to any organisation or person with similar or related functions or carrying out work related to that of the Authority:
  - (e) Appoint committees, whether or not comprised of members of the Authority, and engage consultants and building referees.
  - [(f) In anticipation of levy income, from time to time borrow money from its bankers by way of overdraft or other short term credit facility, for the purpose of covering any shortfall in the funding of its net expenditure, and may mortgage or charge any of its property as security therefor.]
- [(3) Subject to subsection (4) of this section, the Authority may from time to time prescribe the upper limit or limits within which money may be borrowed on its behalf under subsection (2)(f) of this section.]
- [(4) Subject to subsection (5) of this section, it shall not be lawful for the Authority to borrow money in anticipation of its levy income to such an extent that there is owing by the Authority at any time upon its bank account a sum exceeding three-fourths of its actual levy income for the preceding 12 months, or such lower amount as may be jointly approved by the Minister and the Minister of Finance.]
- [(5) Notwithstanding subsection (4) of this section, in the period beginning with the commencement of this subsection and ending with the close of the 30th day of June 1995, the maximum amount that at any time may be owing by the Authority upon its bank account on account of borrowing by the Authority of money in anticipation of its levy income shall not exceed such amount as may be jointly approved from time to time by the Minister and the Minister of Finance.]

## 14 Authority to comply with Government policy

- (1) In the performance and exercise of its functions, duties, and powers the Authority shall comply with any directions relating to the policy of the Government that are given by the Minister to the Authority by notice in writing.
- (2) Where a notice is given to the Authority under subsection (1) of this section, the Minister shall, as soon as practicable after the giving of the notice,—
- (a) Publish a copy of the notice in the *Gazette*; and
  - (b) Lay a copy of the notice before the House of Representatives.

### *Reviews by Authority*

## 15 Reviews by Authority

- (1) The Authority may, of its own motion or at the request of the Minister, undertake a review of the operation by a territorial authority of the territorial authority's functions under this Act.
- (2) In undertaking a review under subsection (1) of this section, the Authority shall give the territorial authority the opportunity to make written submissions to it.
- (3) If the Authority believes that a territorial authority is not fulfilling its functions under this Act it shall make a written report to the Minister.

### *Matters of doubt or dispute for determination by Authority*

#### **16 Definition of “party”**

In sections 17 to 21 of this Act, **party** means—

- (a) The territorial authority affected; and
- (b) Any building certifier affected; and
- (c) The owner affected; and
- (d) The owner of other property (if the matter for determination relates to a provision in the building code that has the purpose of protecting that other property); and
- (e) Any affected person who, or organisation which, (pursuant to any other Act) has a right or an obligation to give notice in writing to a territorial authority in respect of matters to which this Act relates.

#### **17 Matters of doubt or dispute relating to building control**

- (1) If any doubt or dispute arises in respect of—
  - (a) Whether particular matters comply with the provisions of the building code; or
  - (b) The territorial authority's decision in relation to—
    - (i) The issuing of or the refusal to issue, or the cancellation of, any building consent, notice to rectify, code compliance certificate, or compliance schedule, or any amendment thereto; or
    - (ii) Any condition attached to a building consent, notice to rectify, code compliance certificate, or compliance schedule, or any amendment to any such condition; or
    - (iii) The granting or refusal of any waivers or modifications under section 34(4) of this Act; or
  - (c) The issuing of, or the refusal to issue, a code compliance certificate under section 43 of this Act or a building certificate under section 56 of this Act; or
  - (d) The exercise by a territorial authority of its powers under sections [38] and 46 of this Act, and the issuing of a certificate under section 224(f) of the Resource Management Act 1991—

any of the parties may apply to the Authority for a determination in respect of the doubt or dispute.
- (2) In determining an appropriate procedure for the purposes of subsection (1) of this section, the Authority shall—
  - (a) Avoid unnecessary delay and formality; and
  - (b) Recognise tikanga Maori, and receive evidence, written or spoken, in Maori; and
  - (c) Receive any relevant evidence whether or not it would be admissible in a Court of law.
- (3) Except as provided in section 81 of this Act, if any dispute or doubt arises which can be the subject of a determination, no proceedings, other than injunctive proceedings, shall be instituted in the District Court or the High Court unless the applicant in the Court, or any other party entitled to do so, has already applied for a determination of that dispute or doubt, and the Authority has made its determination.
- (4) Any consent, notice, certificate, or schedule issued by a territorial authority that is or arises out of a matter submitted to the Authority under subsection (1) of this section shall be deemed to be suspended pending the determination of that matter, but any direction in a notice under section 42 of this Act to cease building work for safety reasons shall remain in force pending the determination.

#### **18 Matters before Authority**

An application to the Authority under section 17 of this Act shall be limited to whether or not, or to what extent, particular building work or proposed building work (including any actual or proposed demolition) complies with all of the provisions, or with any particular provision, of the building code, or to whether or not the exercise by a territorial authority of the powers referred to in section 17(1)(d) of this Act is unreasonable in relation to the provisions of the building code.

#### **19 Processing application for determination**

- (1) The Authority—
  - (a) May require the applicant for a determination to provide further documents in support of the application; and
  - (b) Shall require the applicant to provide each of the other parties (if any) and any other appropriate person with copies of the application and any documents accompanying the application or provided under paragraph (a) of this subsection.
- (2) If the applicant is unable to comply with any requirement of the Authority under subsection (1) of this section, the applicant shall notify the Authority of the reasons.
- (3) Any submission in respect of any application for a determination received by the Authority before it has determined the matter shall be considered by the Authority.
- (4) The applicant, and every person who has made a written submission, may speak (either personally or through a representative) and call evidence in support.
- (5) The Authority shall not make a decision until the applicant has been given an opportunity to study all submissions and to respond to them.

#### **20 Determinations by Authority**

A determination by the Authority in relation to a matter referred to it under section 17 of this Act may incorporate waivers or modifications and conditions that a territorial authority is empowered to grant or impose and shall—

- (a) Confirm, reverse, or modify the disputed decision to which it relates or determine the matter which is in doubt; and
- (b) Be given to the parties concerned and, in the case of a determination under section 71 or section 81(2) of this Act, be submitted to the District Court; and
- (c) Be binding on the parties concerned, except as provided by section 72 of this Act.

#### **21 Hearings by building referees**

- (1) Without limiting the Authority's powers under section 17 of this Act, the Authority may from time to time engage suitable persons (in this Act called “building referees”) for the purpose of holding inquiries in relation to applications under the said section 17.



- (2) Every such inquiry shall be held as expeditiously as possible and subsection (2) of section 17 and subsections (3) to (5) of section 19 of this Act shall apply in respect of every such inquiry.
- (3) A building referee may receive such relevant evidence and make such other inquiries as the building referee thinks fit, and all evidence and information so received or ascertained (otherwise than at a hearing attended by all the parties or their representatives) shall be disclosed to every party to the inquiry.
- (4) A building referee may receive any relevant evidence under this section, whether or not the evidence would be admissible in a Court of law.
- (5) On the completion of any inquiry—
  - (a) A building referee may, if so authorised by the Authority, give a decision on the application; or
  - (b) A building referee shall, if not so authorised or for any reason declines to give a decision, forward to the Authority a written report of the building referee's findings together with any recommendation, and shall at the same time send a copy thereof to the applicant and all parties.
- (6) Notice of any decision shall be sent to the Authority by a building referee, and the Authority shall give effect to the decision as if it were a determination of the Authority.

### *Miscellaneous provisions*

#### **22 Delegation by Authority**

- (1) The Authority may delegate in writing to any committee appointed by the Authority, or to any of the Authority's employees, any of the Authority's functions, powers, rights, and duties under this Act, other than—
  - (a) The fixing of charges under section 23 of this Act; and
  - [(aa) The power to prescribe, pursuant to section 13(3) of this Act, the upper limit or limits within which money may be borrowed by the Authority; and]
  - (b) The power of delegation conferred by this subsection.
- (2) Any delegation under this section may be made on such terms and conditions as the Authority thinks fit, and may be revoked at any time by notice to the delegate.
- (3) Except as provided in the instrument of delegation, every person to whom any function, power, right, or duty has been delegated under this section may, without confirmation by the Authority, exercise or perform the function, power, right, or duty in like manner and with the same effect as the Authority could itself have exercised or performed it.
- (4) Every person purporting to act under a delegation under this section is presumed to be acting in accordance with its terms in the absence of proof to the contrary.
- (5) A delegation under this section does not affect the performance or exercise of any function, power, right, or duty by the Authority.

#### **23 Authority may fix charges**

- (1) The Authority may from time to time fix charges for exercising or performing any of its functions, powers, or duties under this Act or under the regulations.
- (2) Charges fixed under subsection (1) of this section may be specific amounts or may be determined by reference to scales of charges or other criteria determined or fixed by regulations made under this Act.
- (3) Where a standard charge fixed in accordance with subsection (1) of this section is, in any particular case, inadequate to enable the Authority to recover its actual and reasonable costs in respect of the matter concerned, the Authority may require the person who is liable to pay the standard charge to also pay an appropriate additional charge to the Authority.
- (4) When fixing charges pursuant to this section, the Authority shall fix the charge so as to recover the actual and reasonable costs incurred by it in respect of the exercise or performance of the function, power, or duty to which the charge relates; and may fix different charges for different costs it incurs in the exercise or performance of its various functions, powers, and duties under this Act.
- (5) The Authority may, in any particular case and in its absolute discretion, remit the whole or any part of any charge of a kind referred to in this section which would otherwise be payable.
- (6) Where a charge of a kind referred to in this section is payable to the Authority, it need not perform the action to which the charge relates until the charge has been paid to it in full.

## **[Part 3A**

## **Building Industry Authority levy**

(s 23A to s 23L)

#### **[23A Interpretation**

In this Part of this Act, unless the context otherwise requires,—

**Approved net expenditure** means the estimated net expenditure of the Authority approved by the Minister and the Minister of Finance pursuant to section 23K of this Act:

**Estimated net expenditure** means that portion of the Authority's estimated expenditure as described in section 23J(2)(a) of this Act:

**Estimated value** of any building work means the estimated aggregate of the values, determined in accordance with section 10 of the Goods and Services Tax Act 1985, of all goods and services to be supplied for that building work:

**Financial year** means a period of 12 months ending with the 30th day of June.]

#### **[23B Applicant liable for levy**

- (1) Each applicant to whom a building consent is issued under section 35 of this Act, but excluding any building consent in respect of building work having an estimated value of less than the minimum estimated value which is for the time being prescribed under section 23H(2) of this Act, shall be liable to pay to the Authority a levy on the estimated value of the building work in respect of which that consent is issued, calculated at the rate which is for the time being prescribed under section 23H(1) of this Act.

- (2) Every such levy shall become due and payable by the applicant to the territorial authority (as agent for the Authority) at the time the building consent in respect of such building work is issued.
- (3) Where building work is, or is proposed to be, completed in stages then, for the purpose of assessing the levy payable in respect of such building work, the estimated value of each stage of the building work shall be deemed to include the estimated value of the preceding stage, if that preceding stage had an estimated value of less than the minimum estimated value that was, at the time of issuing of the building consent in respect of that stage, prescribed under section 23H(2) of this Act.
- (4) For the purposes of subsection (3) of this section, any new building work in connection with a building shall be deemed to be a further stage of any previous building work in connection with that building if a building consent was or ought to have been obtained in respect of that previous building work, and the code compliance certificate in respect of that work has not been issued as at the date of the application for a building consent for the new building work.]

**[23C Payment of levy to Authority**

- (1) The territorial authority shall, upon the issuing of a building consent to which section 23B of this Act applies, become liable to the Authority for any levy at the rate then declared, computed in respect of the total estimated value of the building work.
- (2) The total amount of the levy for which any territorial authority becomes liable in any month shall be due and payable to the Authority by the 20th day of the month following the end of the month in which the relevant building consent was issued.
- (3) Every such payment shall be accompanied by a certificate by the territorial authority, or by an officer or agent of the territorial authority, stating that, according to the financial records of the territorial authority, and to the best of that person's knowledge and belief, the payment is correct.
- (4) Subject to subsection (5) of this section, the territorial authority may retain 3 percent of the levies for which the territorial authority is so liable in any month.
- (5) If any territorial authority liable to pay levies to the Authority in accordance with subsection (2) of this section fails to pay those levies by the date specified in subsection (2) of this section—
  - (a) Subsection (4) of this section shall not apply; and
  - (b) The amount of those levies, together with interest thereon at the monthly basic lending rate of the Authority's bank, calculated from the date payment is due, may be recovered as a debt due from that territorial authority to the Authority.
- (6) Interest calculated under subsection (5) of this section shall be calculated in monthly instalments for each month, or part thereof, that the payment is due.
- (7) The Authority may from time to time, upon and subject to such conditions as it thinks fit, release any territorial authority wholly or partly from its liability in respect of any levy or part of any levy under this section which, in the opinion of the Authority, is irrecoverable by the territorial authority from the applicant.
- (8) The provisions of subsections (5) and (6) of this section, with the necessary modifications, shall apply in respect of any applicant who has failed to pay any levy or part of any levy payable under section 23B of this Act as if—
  - (a) References in this section to a territorial authority were references to the applicant; and
  - (b) References in this section to the Authority were references to the territorial authority to which the levy or part thereof is payable.]

**[23D Levy money deemed to be income in the month it is received**

- (1) All money received by the Authority in respect of any levy under this Part of this Act shall be deemed to be income of the Authority in the month in which it is received; and the provisions of this Act, with any necessary modifications, shall apply accordingly.
- (2) The money received by the Authority from levies imposed under this Part of this Act shall be used by the Authority in the exercise of its functions under section 12 of this Act.]

**[23E Audit of issue of building consents**

- (1) Every territorial authority shall at all times keep in safe custody all records of building consents issued by it, including the estimated value of the building work to which each consent relates, and the amount of any levy payable under this Part of this Act (if any), and the date of payment of the levy to the territorial authority.
- (2) For the purpose of ascertaining whether the levy for which any territorial authority is liable under this Act has been paid and whether the provisions of this Part of this Act have been complied with, the Authority or its authorised officers or agents may from time to time examine the records of building consents and the financial records of the territorial authority.
- (3) It shall be the duty of such authorised officers or agents of the Authority to report the result of any such examination to the Authority.
- (4) The territorial authority shall forthwith on demand make available for inspection its records of building consents and its financial records to the said authorised officers or agents of the Authority, who may make copies of those records.]

**[23F Power to obtain information in order to assess amount of levy payable**

- (1) The Authority may require the applicant or the territorial authority to provide such information relating to the estimated value of building work specified in a building consent as may be necessary to enable the Authority to assess the amount of levy properly payable to it.
- (2) An applicant providing information to the Authority under subsection (1) of this section may request the Authority to treat that information as confidential, and, except where compliance with that request would be contrary to any other law, the request shall be complied with by the Authority to the fullest extent possible.]

**[23G Authority may enter into agreements for auditing information pursuant to sections 23E and 23F of this Act**

The Authority may, at its discretion, from time to time enter into agreements with any person or persons for the purpose of enabling that person or those persons to act as agent of the Authority in terms of sections 23E and 23F of this Act to determine whether payment of the levy has been made in accordance with the provisions of this Part of this Act.]

**[23H Rate of levy and minimum estimated value of building work upon which levy is assessable**

- (1) The levy to be paid, pursuant to section 23B of this Act, shall be assessed at the rate of \$1 for every \$1,000 (or part thereof) of the estimated value of the building work concerned or such lower rate as the Governor-General may from time to time prescribe by Order in Council on the advice of the Minister.
- (2) Notwithstanding the provisions of subsection (1) of this section, no levy shall be payable in respect of building work having an estimated value of less than \$20,000 or such higher value as the Governor-General may from time to time prescribe by Order in Council on the advice of the Minister.
- (3) Every Order in Council made under this section shall be deemed to be a regulation for the purposes of the Regulations (Disallowance) Act 1989.]

**[23I Minister to review levy annually**

- (1) The rate of the levy shall be reviewed annually by the Minister.
- (2) In reviewing the rate of the levy the Minister shall have regard to—
  - (a) Whether the proceeds of the levy received by the Authority in any financial year, together with the proceeds of any charges fixed by the Authority under section 23 of this Act, were in excess of or surplus to the actual expenditure of the Authority in that financial year; and
  - (b) The terms of any financial parameters notified by the Minister under section 23J of this Act; and
  - (c) The total estimated value of building work in respect of which the levy is payable at the latest available date, and the likelihood of any increase or decrease in that total estimated value; and
  - (d) The desirability of ensuring, so far as is practicable, that any increases or decreases in the rate of the levy are designed to maintain the overall level of stability of the levy in the long term.]

**[23J Authority to submit estimates of expenditure to Minister**

- (1) The Minister, after consultation with the Minister of Finance, before the 1st day of March in each year, shall notify the Authority in writing of the financial parameters that the Authority shall have due regard to when preparing its estimates of expenditure for the next financial year and any subsequent financial year.
- (2) On or before the 30th day of April in each year, the Authority shall prepare and submit to the Minister and the Minister of Finance estimates of expenditure it proposes to make for the next financial year, and shall include as part of those estimates a statement on—
  - (a) The amount of expenditure that is to be funded by way of levy and interest on any levy due and owing; and
  - (b) The amount of expenditure that is to be funded from the proceeds of income earned or received by the Authority from other sources.]

**[23K Minister and Minister of Finance to approve estimates of net expenditure**

- (1) Where the Minister considers that the estimates of expenditure as submitted in terms of section 23J(2) of this Act have been prepared having full and due regard to any directions made by the Ministers pursuant to section 23J(1) of this Act, the Minister and Minister of Finance may jointly approve the estimates, with or without amendment.
- (2) Where any approval is jointly given by the Minister and the Minister of Finance under subsection (1) of this section in respect of the estimated net expenditure of the Authority, that estimated net expenditure shall be deemed to be the approved net expenditure of the Authority for the financial year to which those estimates relate.
- (3) The Authority shall not in any financial year exceed the approved net expenditure for the financial year to which those estimates relate.
- (4) Where the Minister and the Minister of Finance consider that the submitted estimates of expenditure have not been prepared having full and due regard to any directions made by the Ministers pursuant to section 23J(1) of this Act, the Minister and the Minister of Finance shall—
  - (a) Approve the estimates, with such amendments as may be determined by them; or
  - (b) Direct that the Authority prepare a revised set of estimates in accordance with any directions given by the Ministers.
- (5) Where the Authority is required, pursuant to subsection (4) of this section, to prepare a revised set of estimates, the provisions of subsections (1) and (2) of this section shall, with appropriate modifications, apply to the consideration of those estimates by the Minister and the Minister of Finance.
- (6) The requirements of this section are in addition to those that apply under the Public Finance Act 1989.]

**[23L Authority to establish Levy Account**

- (1) The Authority shall establish a separate account to be known as the Levy Account.
- (2) The Authority shall pay into the Levy Account all money received by it under section 23C of this Act.
- (3) Where in any financial year the proceeds of the levy exceed the approved net expenditure of the Authority, that excess shall be deemed to be an advance of payment of levy, and shall be taken into account on the next occasion on which the levy is reviewed.
- (4) Where in any financial year, the proceeds of the levy is less than the approved net expenditure of the Authority, the shortfall shall be deemed to be shortfall in the payment of the levy and shall be taken into account on the next occasion the rate of levy is reviewed.
- (5) The uncommitted surplus (if any) or the amount of the deficit (if any) of the Authority for any financial year shall be taken into account in calculating the estimates of expenditure of the Authority for the succeeding financial year.]

**Part 4****Functions, powers, and duties of territorial authorities**

(s 24 to s 29)

**24 Functions and duties of territorial authorities**

Every territorial authority shall have the following functions under this Act within its district:

- (a) The administration of this Act and the regulations:
- (b) To receive and consider applications for building consents:

- (c) To approve or refuse any application for a building consent within the prescribed time limits:
- (d) To determine whether an application for a waiver or modification of the building code, or any document for use in establishing compliance with the provisions of the building code, should be granted or refused:
- (e) To enforce the provisions of the building code and regulations:
- (f) To issue project information memoranda, code compliance certificates, and compliance schedules:
- (g) Any other function specified in this Act.

## **25 Transfer of powers**

- (1) A territorial authority that has functions, powers, or duties under this Act may transfer any one or more of those functions, powers, or duties to another territorial authority in accordance with this section, other than this power of transfer.
- (2) A territorial authority that transfers any function, power, or duty under this section shall continue to be responsible for the exercise thereof.
- (3) A territorial authority shall not transfer any of its functions, powers, or duties under this section unless—
  - [(a) it has used the special consultative procedure specified in section 83 of the Local Government Act 2002; and]
  - (b) Before using that special consultative procedure it serves notice on the Minister of its proposal to transfer the function, power, or duty; and
  - (c) Both authorities agree that the transfer is desirable on the following grounds:
    - (i) Efficiency;
    - (ii) Technical or special capability or expertise.
- (4) A transfer of functions, powers, or duties under this section shall be made by agreement between the authorities concerned and on such terms and conditions as are agreed.
- (5) A territorial authority to which any function, power, or duty is transferred under this section may accept such transfer; and upon any such transfer, its functions, powers, and duties shall be deemed to be extended in such manner as may be necessary to enable it to undertake, exercise, and perform the function, power, or duty.
- (6) A territorial authority which has transferred any function, power, or duty under this section may change or revoke the transfer at any time by notice to the transferee.
- (7) A territorial authority to which any function, power, or duty has been transferred under this section may relinquish the transfer in accordance with the transfer agreement.

## **26 Duty to gather information and monitor**

Every territorial authority shall gather such information, and undertake or commission such research, as is necessary to carry out effectively its functions under this Act.

## **27 Records**

- (1) Every territorial authority shall keep reasonably available information which is relevant to the administration of this Act to enable the public to be informed of their obligations and to participate effectively under this Act.
- (2) The information to be kept by a territorial authority under subsection (1) of this section shall be kept at least for the life of the building to which it relates, and shall include—
  - (a) All plans and specifications submitted to it in relation to an application for a building consent; and
  - (b) Records of project information memoranda, building consents, code compliance certificates, compliance schedules, building warrants of fitness, [any energy work certificates received by the territorial authority,] and any orders issued under sections 64 to 71 of this Act, in respect of a building; and
  - (c) Records of any information on any land or building received from a statutory authority which has power to classify any land or buildings for any purpose; and
  - (d) A summary of written complaints received by it during the preceding 5 years concerning alleged breaches of the Act and information on how it dealt with each such complaint.
- (3) Subject to the Local Government Official Information and Meetings Act 1987 [and to section 23F(2) of this Act], every person shall have the right to inspect the information referred to in subsections (1) and (2) of this section during ordinary office hours, other than any plan or specification that the person who submitted it, the owner, or any subsequent owner has marked as being confidential because of the need to safeguard the copyright of the plan or specification or because of any requirements of the owner of the building relating to the security of the building.
- (4) Subject to section 44A of the Local Government Official Information and Meetings Act 1987, a local authority shall make photocopying facilities available to persons who inspect documents under subsection (3) of this section, and may charge a reasonable fee for their use.

## **28 Charges by territorial authorities**

- (1) A territorial authority may from time to time, in accordance with [section 150 of the Local Government Act 2002], fix charges of any or all of the following kinds:
  - (a) Charges payable by applicants for or holders of building consents for the carrying out by the territorial authority of its functions under this Act;
  - (b) Charges for the issue of code compliance certificates;
  - (c) Charges for the issue of compliance schedules (other than for buildings to which section 44(6) of this Act applies);
  - (d) Charges for providing information in respect of building consents payable by the person requesting the information;
  - (e) Charges for providing information contained in a project information memorandum;
  - (f) Any other kind of charge authorised under this Act.
- (2) Where a charge fixed in accordance with subsection (1) of this section is, in any particular case, inadequate to enable a territorial authority to recover its actual and reasonable costs in respect of the matter concerned, the territorial authority may require the person who is liable to pay the standard charge to also pay an appropriate additional charge to the territorial authority.

- (3) Where a territorial authority accepts a building certificate issued under section 56 of this Act, [for an energy work certificate,] the territorial authority's charge shall be reduced accordingly.
- (4) Where a charge of a kind referred to in this section is payable to a territorial authority, the territorial authority need not perform the action to which the charge relates until the charge has been paid to it in full.

### **29 Non-performance by territorial authority**

- (1) If the Minister considers that any territorial authority is not exercising or performing any of its functions, powers, or duties under this Act to the extent that the Minister considers necessary to achieve the purposes of this Act, the Minister shall consult with the Minister of Local Government and may appoint, on such terms and conditions as the Minister thinks fit, one or more persons to exercise or perform all or any of those functions, powers, or duties in place of the territorial authority.
- (2) Before making any appointment under subsection (1) of this section, the Minister shall give the territorial authority at least 20 days' notice in writing of the Minister's intention to do so.
- (3) Any person appointed under subsection (1) of this section to exercise or perform the functions, powers, or duties of a territorial authority under this Act may do so as if the person were the territorial authority; and the provisions of this Act shall apply accordingly.
- (4) All costs, charges, and expenses incurred by the Minister for the purposes of this section, or by a person appointed by the Minister under this section, in exercising or performing any functions, powers, or duties of a territorial authority, shall be recoverable from the territorial authority as a debt due to the Minister or may be deducted from any money payable to the territorial authority by the Minister.
- (5) In making any such appointment the Minister shall specify the period for which the appointment is made, and it may from time to time be renewed.
- (6) Any person or persons appointed by the Minister may resign in writing addressed to the Minister by giving at least 30 days' notice.
- (7) In determining whether any appointment under this section should be renewed or whether a new appointment should be made, the Minister shall consider whether the territorial authority is capable of exercising its powers, functions, and duties under this Act, and, if the Minister considers the territorial authority is so capable, the territorial authority shall be directed by the Minister to resume those powers, functions, and duties.

## **Part 5**

### **Building work and use of buildings**

(s 30 to s 47A)

#### ***Project information memoranda***

### **30 Applications for project information memoranda**

- (1) An owner who is contemplating undertaking any building work for which a building consent is required may, without applying for a building consent under section 33 of this Act, apply to the territorial authority for a project information memorandum in respect of the work.
- (2) If no application is made under subsection (1) of this section, an application under section 33 of this Act shall be deemed to include an application for a project information memorandum.
- (3) Every application for a project information memorandum shall be in the prescribed form and be accompanied by—
  - (a) The charge fixed by the territorial authority in relation to the making of the application; and
  - (b) Such information as the territorial authority reasonably requires in relation to authorisations or requirements (if any) likely to be relevant to the design and construction of the proposed building that the territorial authority is authorised to refuse or impose under any Act, other than this Act, and including (but not limited to) authorisations or requirements in respect of—
    - (i) The intended use of the proposed building; and
    - (ii) The location and external dimensions of the proposed building; and
    - (iii) Provisions to be made for vehicular access; and
    - (iv) Provisions to be made in building over or adjacent to any road or public place; and
    - (v) Provisions to be made for disposing of stormwater and wastewater; and
    - (vi) Precautions to be taken where building work is to take place over any existing drains or sewers or in close proximity to wells or watermains; and
  - (c) Such information as the territorial authority (acting as agent for a network utility operator by prior agreement with that network utility operator) requires in respect of proposed connections to public utilities from the proposed building work.
- [ (4) The territorial authority shall advise the Historic Places Trust of any application for a project information memorandum within 5 days of the receipt of the application, where the application affects any registered historic place, historic area, wahi tapu, or wahi tapu area.]

### **31 Issuing project information memoranda**

- (1) After considering an application for a project information memorandum, the territorial authority shall issue the memorandum, within the prescribed period, if it is satisfied that it has received all information required under section 30 of this Act.
- (2) Every project information memorandum shall include—
  - (a) Information[, likely to be relevant to the proposed building work,] identifying each (if any) special feature of the land concerned, including (but not limited to) potential erosion, avulsion, falling debris, subsidence, slippage, alluvion, or inundation, or the likely presence of hazardous contaminants, being a feature or characteristic that—
    - (i) Is likely to be relevant to the design and construction or alteration of the building or proposed building; and
    - (ii) Is known to the territorial authority; but
    - (iii) Is not apparent from the district scheme under the Town and Country Planning Act 1977 or the district plan under the Resource Management Act 1991:
  - (b) Information[, likely to be relevant to the proposed building work,] which, in terms of any other Act, has been notified to the territorial authority by any statutory organisation having the power to classify [or register] land or buildings for any purpose:

- (c) Details of any existing stormwater or wastewater utility systems which relate to the proposed building work or which are on or adjacent to the site of the proposed building work:
  - (d) Details of each, if any, authorisation in respect of the proposed building work which the territorial authority on its own behalf and on behalf of any network utility operator (where the territorial authority is acting as agent for a network utility operator by prior agreement with that network utility operator) is authorised to refuse or require under any Act, other than this Act, and, in respect of each of them, a statement of the requirements to be met in order for the authorisation to be granted or imposed and the conditions that such an authorisation will be subject to.
- (3) Every project information memorandum shall further include, either—
- (a) Confirmation, subject to the other provisions of this Act, that building work may be undertaken subject to the requirements of the building consent and subject also to all other necessary authorisations being obtained; or
  - (b) Notification that building work may not be undertaken because any necessary authorisation has been refused, notwithstanding the issue of any building consent.
- (4) For the purposes of this section, the land concerned shall be the land on which the proposed building work is to be undertaken and any other land likely to affect or be affected by the building work.
- (5) Where any project information memorandum contains any information previously supplied to the territorial authority by any network utility operator or any statutory organisation that has power to classify [or register] land or buildings, a copy of the memorandum shall be supplied by the territorial authority to that operator or that organisation.

### ***Building consents***

#### **32 Buildings not to be constructed, altered, or demolished without consent**

- (1) It shall not be lawful to carry out building work except in accordance with a consent to carry out building work (in this Act called a **building consent**), issued by the territorial authority, in accordance with this Act.
- (2) This section shall not apply in respect of—
- (a) Any building or building work to which section 5(2) of this Act applies; or
  - [(b) Any building work specified in Schedule 3 to this Act as being work for which a building consent is not required; or]
  - [(ba) Any building work in respect of which the obtaining of a building consent in advance would be impracticable because it is necessary to carry out the work urgently—
    - (i) For the purpose of saving or protecting life or health or preventing serious damage to property; or
    - (ii) In order to ensure that any system or feature that is contained in a building and that is covered by a compliance schedule, or would be so covered if a compliance schedule were issued in respect of the building, is maintained in a safe condition or is made safe; or]
  - [(bb) Any energy work that, by virtue of section 32A of this Act, does not require a building consent; or]
  - (c) Any building work which the territorial authority is authorised to carry out under this Act.
- [(2A) Where, in reliance on subsection (2)(ba) of this section, any building work is carried out without a building consent having been obtained in respect of that work, the owner shall, as soon as practicable after the work is begun,—
- (a) Take all reasonable steps necessary to obtain a building consent in respect of the work; and
  - (b) In the case of work done in relation to a system or feature that is covered by a compliance schedule, supply to the relevant territorial authority such information as the territorial authority may reasonably require for the purposes of enabling the territorial authority to determine, in accordance with section 44(7) of this Act, whether or not the provisions of the compliance schedule should be amended.]
- (3) The Governor-General may from time to time, by Order in Council, add any building work or class of building work to Schedule 3 to this Act as being building work for which a building consent is not required.

#### **[32A Exemption for energy work**

- (1) Subject to subsections (2) to (4) of this section, energy work does not require a building consent.
- (2) Subsection (1) of this section does not apply in respect of any energy work that relates to any system or feature—
- (a) That is contained in, or proposed to be contained in, any building (whether existing or proposed); and
  - (b) That—
    - (i) In the case of any such existing system or existing feature, is covered by a compliance schedule, or would be so covered if a compliance schedule were issued in respect of the building;
    - (ii) In the case of any proposed system or proposed feature, will be required to be covered by a compliance schedule.
- (3) Subsection (1) of this section does not apply in respect of any energy work in any case where, if that work required a building consent, such a consent could not be granted unless it were granted subject to a waiver or modification of the building code or any document for use in establishing compliance with the building code.
- (4) Where any owner wishes to obtain a building consent in respect of any energy work that does not require a building consent, the owner may apply for a building consent in respect of that work (whether or not the application also relates to any other building work), and in any such case this Act shall apply in all respects as if the energy work to which the application relates required a building consent.]

#### **33 Applications for building consents**

- (1) An owner intending to carry out any building work shall, before the commencement of the work, apply to the territorial authority for a building consent in respect of the work.
- (2) Every application for a building consent shall be in the prescribed form and be accompanied by the charge fixed by the territorial authority in relation to the making of the application, and by such plans and specifications and other information as the territorial authority reasonably requires.
- [(2A) Upon receipt of an application for a building consent under subsection (1) of this section, the territorial authority shall advise the applicant of the amount of the levy owing and payable by the applicant under section 23B of this Act.]

- (3) A series of applications for building consent may be made in respect of stages of the proposed building work.
- (4) An application for an amendment to a building consent shall be made in the same manner as the original application.
- (5) Subject to section 34(3) of this Act, a territorial authority may, at its discretion, accept from the applicant a producer statement establishing compliance with all or any of the provisions of the building code.
- [(6) The territorial authority shall advise the Historic Places Trust of any application for a building consent within 5 days of the receipt of the application, where—
  - (a) The application affects any registered historic place, historic area, wahi tapu, or wahi tapu area; and
  - (b) The applicant has not previously applied to the territorial authority for a project information memorandum that conforms with the application for the building consent.]

### **34 Processing building consents**

- (1) The territorial authority shall grant or refuse an application for a building consent within the prescribed period.
- (2) A territorial authority may, within the prescribed period, require further reasonable information in respect of the application and, for the purposes of this Act, the prescribed period shall be deemed to have been suspended until the further information is received by the territorial authority.
- (3) After considering an application for building consent, the territorial authority shall grant the consent if it is satisfied on reasonable grounds that the provisions of the building code would be met if the building work was properly completed in accordance with the plans and specifications submitted with the application.
- (4) The territorial authority may grant a building consent subject to—
  - (a) Such waivers or modifications of the building code, or any document for use in establishing compliance with the building code, subject to such conditions as the territorial authority considers appropriate; and
  - (b) Such conditions as the territorial authority is authorised to impose under this Act or the regulations in force under this Act.
- (5) In formulating any conditions under subsection (4) of this section, the territorial authority shall have due regard to the provisions of the building code and the matters set out in section 47 of this Act.
- (6) Notwithstanding subsection (4) of this section, the question of whether there should be an exemption from the requirement for a fence to be provided in respect of any particular swimming pool shall be a matter to be determined in accordance with the Fencing of Swimming Pools Act 1987.
- [(7) Notwithstanding subsection (4) of this section, in relation to any building to which section 47A of this Act applies, a waiver or modification relating to access and facilities for use by people with disabilities shall only be granted by the Authority in a determination issued under Part 3 of this Act which is in accordance with the requirements of the said section 47A.]
- (8) Where the issue of a building consent involves any waiver or modification of the building code the territorial authority shall notify the Authority of the particulars concerning that waiver or modification.

### **[34A Referral of application relating to energy work**

- (1) Notwithstanding anything in section 34 of this Act, where an application for a building consent is made to a territorial authority in respect of any energy work, then, in so far as the application involves the grant or refusal of a waiver or modification of the building code, or any document for use in establishing compliance with the building code, in respect of that energy work, the territorial authority shall refer the application to the Authority for a decision on—
  - (a) Whether or not that waiver or modification should be granted; and
  - (b) If the Authority determines that the waiver or modification should be granted, whether or not any conditions should be imposed in respect of that grant, and, if so, the terms of the conditions.
- (2) A referral to the Authority pursuant to subsection (1) of this section shall be deemed to be an application made to the Authority under section 17 of this Act by the applicant for the building consent to which the referral relates, and Part 3 of this Act, so far as applicable and with all necessary modifications, shall apply accordingly.
- (3) In determining, in relation to any application referred to the Authority pursuant to subsection (1) of this section, whether or not a waiver or modification of the building code or any document for use in establishing compliance with the building code should be granted, the Authority shall consult with the Secretary, and shall have due regard to any advice received from the Secretary in relation to the matter.]

### **34B Referral of applications for buildings which are also stationary containers (*Not in force*)**

#### **35 Issue of building consent**

- (1) The territorial authority shall issue each building consent to the applicant in the prescribed form on the payment of any charge fixed by the territorial authority in relation to the consent [and the payment of any levy payable under section 23B of this Act].
- [(1A) The territorial authority may attach to a building consent issued under subsection (1) of this section a certificate, in the prescribed form, to the effect that an authorisation under the Resource Management Act 1991 which, in the opinion of the territorial authority, will materially affect the building work to which the building consent relates has not yet been obtained, and until that authorisation has been so obtained—
  - (a) No building work may proceed; or
  - (b) Building work may only proceed to the extent specified in the certificate.]
- (2) If the territorial authority refuses to grant a building consent it shall notify the applicant, in writing, specifying the reasons.
- (3) The issue of a building consent shall not of itself—
  - (a) Relieve the owner of the building or proposed building, to which the building consent relates, of any duty or responsibility under any other Act relating to or affecting the building or proposed building; or
  - (b) Permit the construction, alteration, or demolition or removal of the building or proposed building if that construction, alteration, demolition, or removal would be in breach of any other Act.

### *Limitations and restrictions on building consents*

#### **36 Building on land subject to erosion, etc**

- (1) Except as provided for in subsection (2) of this section, a territorial authority shall refuse to grant a building consent involving construction of a building or major alterations to a building if—
- (a) The land on which the building work is to take place is subject to, or is likely to be subject to, erosion, avulsion, alluvion, falling debris, subsidence, inundation, or slippage; or
  - (b) The building work itself is likely to accelerate, worsen, or result in erosion, avulsion, alluvion, falling debris, subsidence, inundation, or slippage of that land or any other property—
- unless the territorial authority is satisfied that adequate provision has been or will be made to—
- (c) Protect the land or building work or that other property concerned from erosion, avulsion, alluvion, falling debris, subsidence, inundation, or slippage; or
  - (d) Restore any damage to the land or that other property concerned as a result of the building work.
- (2) Where a building consent is applied for and the territorial authority considers that—
- (a) The building work itself will not accelerate, worsen, or result in erosion, avulsion, alluvion, falling debris, subsidence, inundation, or slippage of that land or any other property; but
  - (b) The land on which the building work is to take place is subject to, or is likely to be subject to, erosion, avulsion, alluvion, falling debris, subsidence, inundation, or slippage; and
  - (c) The building work which is to take place is in all other respects such that the requirements of section 34 of this Act have been met—

the territorial authority shall, if it is satisfied that the applicant is the owner in terms of this section, grant the building consent, and shall include as a condition of that consent that the territorial authority shall, forthwith upon the issue of that consent, notify the District Land Registrar of the land registration district in which the land to which the consent relates is situated; and the District Land Registrar shall make an entry on the certificate of title to the land that a building consent has been issued in respect of a building on land that is described in subsection (1)(a) of this section. [In any such case it shall not be necessary for the Registrar to record the like entry on the duplicate of the certificate of title.]

- (3) Where the territorial authority determines that the entry referred to in subsection (2) of this section is no longer required, it shall send notice of the determination to the District Land Registrar who shall amend his or her records accordingly. [In any such case it shall not be necessary for the Registrar to record a like entry on the duplicate certificate of title unless that duplicate had had an entry recorded on it pursuant to subsection (2) of this section or pursuant to section 641A of the Local Government Act 1974.]
- (4) Where—
- (a) Any building consent has been issued under subsection (2) of this section; and
  - (b) The territorial authority has notified the District Land Registrar in accordance with subsection (2) of this section that it has issued the consent; and
  - (c) The territorial authority has not notified the District Land Registrar under subsection (3) of this section that it has determined that the entry made on the certificate of title of the land is no longer required; and
  - (d) The building to which the building consent relates later suffers damage arising directly or indirectly from erosion, subsidence, avulsion, alluvion, falling debris, inundation, or slippage, or from inundation arising from such erosion, subsidence, avulsion, alluvion, falling debris, or slippage—

the territorial authority and every member, employee, or agent of the territorial authority shall not be under any civil liability to any person having an interest in that building on the grounds that it issued a building consent for the building in the knowledge that the building for which the consent was issued or the land on which the building was situated was, or was likely to be, subject to damage arising, directly or indirectly, from erosion, subsidence, avulsion, alluvion, falling debris, inundation, or slippage or from inundation arising from such erosion, subsidence, avulsion, alluvion, falling debris, or slippage.

- (5) Where an application made by or on behalf of the Crown is such that, if the applicant were not the Crown, subsections (2) and (4) of this section would otherwise apply, the territorial authority, in approving any such application, shall notify the appropriate Minister and the Chief Surveyor for the land district in which the land is situated, and include with that notification a copy of the project information memorandum issued in respect of the building consent; and such notification shall be deemed to meet the requirements of this section.
- (6) Where an application made by or on behalf of the owners of Maori land is such that, if the application were not in respect of Maori land, subsection (2) of this section would otherwise apply, the territorial authority, in approving any such application, shall notify the Registrar of the Maori Land Court, and include with that notification a copy of the project information memorandum issued in respect of the building consent; and such notification shall be deemed to meet the requirements of this section.
- (7) Where any notification is given pursuant to subsection (5) or subsection (6) of this section, the Chief Surveyor or the Registrar of the Maori Land Court, as the case may be, shall enter in his or her records the particulars of the notification together with a copy of the project information memorandum included with that notification.

[(7A) Where the territorial authority determines, in respect of any notification recorded pursuant to subsection (7) of this section, that the entry is no longer required, it shall send notice of the determination to the Chief Surveyor or the Registrar of the Maori Land Court, as the case may require, who shall enter the particulars of the determination in his or her records.]

- (8) For the purposes of subsection (2) of this section, the term **owner** means the person having ownership of the fee simple of the land on which the building work is or has taken place.

#### **37 Construction of building on 2 or more allotments**

- (1) Except as provided in subsection (11) of this section, where application is made to a territorial authority for a building consent to construct a building over land of the applicant comprised or partly comprised of 2 or more allotments of an existing subdivision or existing subdivisions (whether comprised in the same certificate of title or not), and those allotments are held by the applicant as owner in fee



- simple, the territorial authority shall, as a condition of the grant of the consent, require that any specified one or more of those allotments shall not be transferred or leased except in conjunction with any specified other or others of those allotments.
- (2) Every such condition shall be set out in a certificate authenticated by the territorial authority in terms of section 252 of the Local Government Act 1974 and signed by the owner, and shall be lodged with the District Land Registrar who, subject to subsection (7) of this section, shall make an entry on each certificate of title for any allotment (or part thereof) to which the condition applies to the effect that it is subject to the condition specified in that certificate. [In any such case it shall not be necessary for the Registrar to record the like entry on the duplicate of the certificate of title.]
  - (3) When the entry referred to in subsection (2) of this section has been made on the certificates of title for the several allotments affected, then none of those allotments shall be capable of being transferred or leased except in conjunction with the other or others of them.
  - (4) Where an entry specified in subsection (2) of this section is made on 2 or more certificates of title and any of the land less than the whole of the land comprised in all those certificates of title is, at the time of the making of the entry, independently subject to a registered instrument under which a power to sell, a right of renewal, or a right or obligation to purchase is lawfully conferred or imposed, and that power, right, or obligation becomes exercisable but is not able to be exercised or fully exercised because of subsection (3) of this section, the whole of the land comprised in all those certificates of title shall be deemed to be subject to that registered instrument, and all the powers, rights, and obligations thereunder, as if it had been registered against the land at the time of the making of that entry.
  - (5) Where any instrument to which subsection (4) of this section applies is a mortgage, charge, or lien and if any of the land to which that mortgage, charge, or lien is extended is already subject to a registered mortgage, charge, or lien, that registered mortgage, charge, or lien shall have priority over the registered mortgage, charge, or lien extended over that land by the provisions of subsection (4) of this section.
  - (6) Where, pursuant to subsection (4) of this section, any registered mortgage, charge, or lien is extended over the land comprised in any certificate of title, it shall be deemed to have priority over any mortgage, charge, or lien against that land which is registered subsequent to the making of the entry against the certificate of title to that land pursuant to subsection (2) of this section.
  - (7) Where a certificate referred to in subsection (2) of this section is lodged with the District Land Registrar, but the District Land Registrar is satisfied that it is not practicable or desirable to make on the certificates of title the entry specified in that subsection, the District Land Registrar may require that a plan prepared in accordance with section 167 of the Land Transfer Act 1952 amalgamating all the allotments into one allotment, or, where the circumstances render it expedient or desirable, into 2 or more allotments, be deposited under the Land Transfer Act 1952, and a certificate or certificates of title under that Act be issued for the land in terms of the plan.
  - (8) Where the requirements of subsections (1) to (6) of this section or the requirements of section 643(1) to (6) of the Local Government Act 1974 or any previous enactment were met in order to enable a building to be built on 2 or more allotments and the building is removed or demolished or destroyed, [or the boundaries of the allotments are adjusted in a manner which results in the building being contained entirely within the boundaries of one allotment, or circumstances have otherwise changed,] the owner may apply to the territorial authority for approval for the removal of the requirement that any specified one or more of those allotments shall not be transferred or leased except in conjunction with any specified other or others of those allotments.
  - (9) Where the territorial authority approves, in terms of subsection (8) of this section, the removal of those requirements, the decision of the territorial authority shall be set out in a certificate authenticated by the territorial authority in terms of section 252 of the Local Government Act 1974 and signed by the owner, and shall be lodged with the District Land Registrar who shall make an appropriate entry on the certificate of title for each allotment (or part thereof), and any mortgage, charge, or lien whose application was extended to additional land under subsection (4) of this section shall thereupon cease to apply to that additional land. [In any such case it shall not be necessary for the Registrar to record a like entry on the duplicate certificate of title unless that duplicate had had an entry recorded on it pursuant to subsection (2) of this section or pursuant to section 643 of the Local Government Act 1974 or pursuant to the corresponding provisions of any previous enactment.]
  - (10) The provisions of subsections (8) and (9) of this section shall apply, with appropriate modification, to any request by an owner of land where the requirements of section 643(1) to (6) of the Local Government Act 1974 or any previous enactment or subsections (1) to (6) of this section were applied in error.
  - (11) Subsection (1) of this section shall not apply where—
    - (a) The owner proposes to construct a building with party walls which will be on the boundaries of the allotments referred to in that subsection; or
    - (b) The owner has made an application pursuant to this section to the District Land Registrar for the consent of that Registrar to a plan being prepared in accordance with section 167 of the Land Transfer Act 1952, in which case the provisions of subsection (7) of this section shall apply accordingly.

### 38 Alterations to existing buildings

No building consent shall be granted for the alteration of an existing building unless the territorial authority is satisfied that after the alteration the building will—

- (a) Comply with the provisions of the building code for means of escape from fire, and for access and facilities for use by people with disabilities [(where this is a requirement in terms of section 47A of this Act)], as nearly as is reasonably practicable, to the same extent as if it were a new building; and
- (b) Continue to comply with the other provisions of the building code to at least the same extent as before the alteration.

### 39 Buildings having specified intended lives

- (1) If any proposed building, or any existing building proposed to be altered, is intended to have a use of not more than 50 years, any building consent for that building shall be issued only on condition that the building shall be altered, removed, or demolished on or before the end of the specified intended life, and subject to such other conditions as the territorial authority considers necessary.
- (2) In subsection (1) of this section, **specified intended life**, in relation to a building, means the period of time, as stated in an application for a building consent or in the consent itself, for which the building is proposed to be used for its intended use.

***Failure to issue building consents, etc*****40 Failure to process application for building consent**

- (1) Subject to this Act, if the territorial authority fails to decide, within the prescribed period, whether to grant or refuse a building consent, the application shall be deemed to have been approved, but only in respect of building work that is to be inspected by a building certifier and that is covered by—
- (a) A building certificate from a building certifier under section 56 of this Act that the building work will comply with this Act and the building code; or
  - (b) A determination to that effect issued by the Authority under Part 3 of this Act in relation to the building work; or
  - (c) A relevant and current accreditation certificate.
- [(2) Upon an application for a building consent being deemed to be approved under subsection (1) of this section—
- (a) Any levy for which the applicant is liable under section 23B of this Act in respect of the building consent shall become payable to the territorial authority; and
  - (b) Any charge for which the applicant is liable under section 35 of this Act in respect of the building consent shall become payable to the territorial authority, but the applicant may deduct from any charge so payable the actual and reasonable charges of any approved certifier engaged for the purposes of subsection (1) of this section, and any such charge not so deducted may be recovered from the territorial authority as a debt.]

**41 Lapse and cancellation of building consent**

- (1) A building consent shall lapse and be of no effect if—
- (a) The building work concerned has not been commenced within 6 calendar months after the date of issue of the consent or within such further period as the territorial authority in its absolute discretion may allow; or
  - (b) Reasonable progress on the building work has not been made within 12 calendar months after work has commenced or within such further period as the territorial authority in its absolute discretion may allow.
- (2) The territorial authority may cancel a building consent in whole or in part forthwith if—
- (a) There has been a change of circumstances such that the territorial authority believes that the proposed building work may contravene any provision of the building code as in force at the time the work commenced; or
  - (b) The rectification work required to be done by a notice to rectify under section 42 of this Act has not been commenced within a reasonable time, or there has been a breach of a condition of any such notice.
- (3) When a territorial authority cancels a building consent, all building work to which it relates shall cease immediately, except for work necessary to properly secure and protect the building and to keep the site in a safe condition.
- (4) If a building consent is cancelled under subsection (2) of this section, the owner may apply for a new consent as if making an application in respect of an alteration to an existing building.

***Notices of rectification*****42 Notices to rectify**

- (1) The territorial authority may issue to the owner or to the person undertaking any building work a notice to rectify, in the prescribed form, requiring any building work not done in accordance with this Act or the building code to be rectified.
- (2) A notice under this section may also direct that all or any building work shall cease forthwith until the territorial authority is satisfied that the persons concerned are able and willing to resume operations in compliance with this Act and the regulations.
- (3) A notice to rectify only applies—
- (a) To building work required during the period in which a building consent is operative; and
  - (b) In respect of building work for which a building consent should have been obtained; and
  - (c) In respect of building work for which a building consent was not required but where there was a requirement that the work meet the building code.
- (4) The provisions of subsection (3)(b) of this section shall not be read as relieving the owner of the requirements of section 33 of this Act to obtain a building consent for building work for which a notice to rectify has been issued under this section.

**43 Code compliance certificate**

- (1) An owner shall as soon as practicable advise the territorial authority, in the prescribed form, that the building work has been completed to the extent required by the building consent issued in respect of that building work.
- (2) Where applicable, the owner shall include with that advice either—
- (a) Any building certificates issued by building certifiers under section 56 of this Act to the effect that any items of the building work comply with specified provisions of the building code; or
  - (b) A code compliance certificate issued by a building certifier under this section and section 56(3) of this Act to the effect that all of the building work complies with each of the relevant provisions of the building code.
- [(2A) In any case where the building work comprises or includes energy work in respect of which a building consent has been issued, the owner shall include with that advice any energy work certificate that relates to that energy work.]
- (3) Except where a code compliance certificate has already been provided pursuant to subsection (2) of this section, the territorial authority shall issue to the applicant in the prescribed form, on payment of any charge fixed by the territorial authority, a code compliance certificate, if it is satisfied on reasonable grounds that—
- (a) The building work to which the certificate relates complies with the building code; or
  - (b) The building work to which the certificate relates complies with the building code to the extent authorised in terms of any previously approved waiver or modification of the building code contained in the building consent which relates to that work.

- [ (3A) Failure to provide to a territorial authority an energy work certificate in respect of any energy work in respect of which a building consent has been issued shall be sufficient grounds for the territorial authority to refuse to issue a code compliance certificate in respect of that energy work.]
- (4) The provisions of this section shall be deemed to enable interim code compliance certificates to be issued, subject to specified conditions, in respect of any part of any building work for which a building consent had previously been issued, whether or not it was previously intended that different parts of that building work were to have been completed in stages, but those interim certificates shall be replaced by the issue of a single code compliance certificate for the whole of the building work at the time the work is completed, to the extent required by the building consent.
- (5) Where a building certifier or a territorial authority refuses to issue a code compliance certificate, the applicant shall be notified in writing specifying the reasons.
- (6) Where a territorial authority considers on reasonable grounds that it is unable to issue a code compliance certificate in respect of particular building work because the building work does not comply with the building code, or with any waiver or modification of the code, as previously authorised in terms of the building consent to which that work relates, the territorial authority shall issue a notice to rectify in accordance with section 42 of this Act.
- (7) Where a territorial authority is notified by a building certifier pursuant to section 56(4) of this Act that the certifier considers that particular building work does not comply with the building code, the territorial authority shall issue a notice to rectify in accordance with section 42 of this Act.
- [(8) Subject to subsection (3) of this section, a territorial authority may, at its discretion, accept a producer statement establishing compliance with all or any of the provisions of the building code.]

### *Use of buildings*

#### **44 Compliance schedules**

- (1) A compliance schedule shall be required for any new building (other than a building used only as a single residential dwelling), if the building contains any of the following systems:
- (a) Automatic sprinkler systems or other systems of automatic fire protection; or
  - (b) Automatic doors, which form part of any fire wall and which are designed to close shut and remain shut on an alarm of fire; or
  - (c) Emergency warning systems for fire or other dangers [(other than a warning system for fire that is entirely within a household unit and serves only that unit)]; or
  - (d) Emergency lighting systems; or
  - (e) Escape route pressurisation systems; or
  - (f) Riser mains for fire services use; or
  - (g) Any automatic back-flow preventer connected to a potable water supply; or
  - (h) Lifts, escalators, or travelators or other similar systems; or
  - (i) Mechanical ventilation or air conditioning systems serving all or a major part of the building; or
  - (j) Any other mechanical, electrical, hydraulic, or electronic system whose proper operation is necessary for compliance with the building code; or
  - (k) Building maintenance units for providing access to the exterior and interior walls of buildings; or
  - (l) Such signs as are required by the building code in respect of any of the above-mentioned systems.
- (2) Every compliance schedule shall be in the prescribed form, shall be issued by the territorial authority, and shall specify the inspection, maintenance, and reporting procedures to be followed by independent qualified persons in respect of the systems specified in subsection (1) of this section and (where applicable) the features and systems specified in subsection (5) of this section.
- (3) For the purposes of subsection (2) of this section, the inspection, maintenance, and reporting procedures in the compliance schedule shall specify the frequency of inspections, and may be identified—
- (a) By description in the compliance schedule; or
  - (b) By reference to a document prepared or approved by the Authority under section 49 of this Act; or
  - (c) In the absence of such a document, as being the procedures considered appropriate by the territorial authority.
- (4) The owner shall ensure—
- (a) That the compliance schedule is kept in the building, or in some other building in the district of the territorial authority, or in some other place agreed upon by the owner and the territorial authority; and
  - (b) That the compliance schedule is available for inspection by any person or organisation who or which has a right to inspect the building under any Act; and
  - (c) That for the first 12 months of the period of the compliance schedule, there is displayed publicly in a place in the building so that users of the building can have access to it, a statement by the territorial authority in the prescribed form stating—
    - (i) The systems and features covered by the compliance schedule; and
    - (ii) The place where the compliance schedule is held.
- (5) Where a compliance schedule is a requirement for the purposes of subsections (1) and (2) of this section, it shall also include, where appropriate, systems or features relating to—
- (a) Means of escape from fire; and
  - (b) Safety barriers; and
  - [(c) Means of access and facilities for use by persons with disabilities which meet the requirements of section 47A of this Act; and]
  - (d) Hand-held hose reels for fire fighting; and
  - (e) Such signs as are required by—
    - (i) The building code; or

[(ii) Section 47A of this Act,—]

in respect of the systems specified in subsection (1) of this section and systems and features specified in this subsection.

- (6) The provisions of subsections (1) to (5) of this section shall apply with respect to existing buildings which contain systems or features referred to in subsection (1) of this section which are present in or form part of those buildings, ... and—
- (a) In the case of a building where the owner notifies the territorial authority of the requirement for a compliance schedule, the said compliance schedule shall be issued within 2 months after the territorial authority being notified;
- (b) In the case of a building where a party in terms of section 16(e) of this Act notifies the territorial authority of the requirement for a compliance schedule, the said compliance schedule shall be issued within 6 months after the territorial authority being notified; and
- (c) In the case where no notification is received by the territorial authority in terms of paragraph (a) or paragraph (b) of this subsection, then the said compliance schedule shall be issued within 2 years after the coming into force of this Part of this Act.
- (7) Where any building work requiring a building consent is carried out which results in the alteration of any specified feature or system which is covered by a compliance schedule, the territorial authority, on completion of that work, shall determine whether the provisions of the compliance schedule shall be amended.
- (8) The provision of subsection (7) of this subsection [sic: section] shall apply, with appropriate modification, where specified features and systems are added to or removed from the building as a result of building work or if the building is demolished.
- (9) For the purposes of this section, an independent qualified person shall be a person who—
- (a) Has no financial interest in the building, other than as a qualified person; and
- (b) Is accepted by the territorial authority as being appropriately qualified to undertake the inspection and maintenance of the feature or system concerned.
- (10) For the purposes of subsection (9) of this section—
- (a) Involvement with the construction of the building as the fully-paid designer, builder, manufacturer, or supplier of the feature or system concerned; and
- (b) Entitlement to any fee for acting as an independent qualified person—
- shall not be regarded as constituting a financial interest.

#### **45 Annual building warrant of fitness**

- (1) On the annual anniversary of the issue of a compliance schedule and on every subsequent annual anniversary, the owner of every building in respect of which a compliance schedule has been issued shall supply to the territorial authority a building warrant of fitness, in the prescribed form and containing the prescribed particulars, that states that the requirements contained in the compliance schedule have been fully complied with during the previous 12 months.
- (2) A copy of the building warrant of fitness shall be publicly displayed by the owner in a place in the building to which users of the building have ready access.
- (3) The owner shall obtain written reports relating to the requirements of the compliance schedule, and—
- (a) Those reports shall be kept by the owner together with the compliance schedule for a period of 2 years and be produced for inspection by the territorial authority and by any person or organisation who or which has the right to inspect the building under any Act; and
- (b) The location of those reports and the compliance schedule shall be shown on the building warrant of fitness displayed in accordance with subsection (2) of this section.
- (4) The territorial authority may issue a notice in the prescribed form at any time if it is satisfied, on reasonable grounds, that the warrant is not correct or that the compliance schedule provisions are not or have not been properly complied with, and that notice shall be deemed to be a notice to rectify in terms of section 42 of this Act.

### *Change of use of buildings*

#### **46 Change of use of buildings, etc**

- (1) It is the duty of an owner of a building to advise the territorial authority in writing if it is proposed—
- (a) To change the use of a building and the change of use will require alterations to the building in order to bring that building into compliance with the building code; or
- (b) To extend the life of a building that has a specified intended life in terms of section 39 of this Act.
- (2) The use of the building shall not be changed unless the territorial authority is satisfied on reasonable grounds that in its new use the building will—
- (a) Comply with the provisions of the building code for means of escape from fire, protection of other property, sanitary facilities, and structural and fire-rating behaviour, and for access and facilities for use by people with disabilities [(where this is a requirement in terms of section 47A of this Act)] as nearly as is reasonably practicable to the same extent as if it were a new building; and
- (b) Continue to comply with the other provisions of the building code to at least the same extent as before the change of use.
- (3) The life of a building with a specified intended life shall not be extended unless the territorial authority is satisfied on reasonable grounds that in its extended use the building has been altered in compliance with the provisions of section 38 of this Act.
- (4) Where a territorial authority is required to consider an application for the issue of a certificate pursuant to section 224(f) of the Resource Management Act 1991 for the purpose of giving effect to a subdivision which affects a building or any part thereof, the territorial authority shall only issue that certificate if it is satisfied on reasonable grounds that the building will—
- (a) Comply with the provisions of the building code for means of escape from fire, protection of other property, and access and facilities for use by people with disabilities [(where this is a requirement in terms of section 47A of this Act)] as nearly as is reasonably practicable to the same extent as if it were a new building; and

- (b) Continue to comply with the other provisions of the building code to at least the same extent as before the application for a subdivision affecting that building or part thereof was made.
- (5) Where the territorial authority is satisfied on reasonable grounds that a change of use or extension of life of a building with a specified intended life has occurred which would require alterations to the building in order to bring that building into compliance with the building code, the territorial authority shall determine whether the owner intends building work to proceed, and if it considers that is not the owner's intention, the territorial authority shall issue a notice in the prescribed form, and that notice shall be deemed to be a notice to rectify in terms of section 42 of this Act.

#### **47 Matters for consideration by territorial authorities in relation to exercise of powers**

In the exercise of its powers under sections 30 to 46 and 64 to 71 of, and Schedule 3 to, this Act the territorial authority shall have due regard to the following matters:

- (a) The size of the building; and
- (b) The complexity of the building; and
- (c) The location of the building in relation to other buildings, public places, and natural hazards; and
- (d) The intended life of the building; and
- (e) How often people visit the building; and
- (f) How many people spend time in or in the vicinity of the building; and
- (g) The intended use of the building, including any special traditional and cultural aspects of the intended use; and
- (h) The expected useful life of the building and any prolongation of that life; and
- (i) The reasonable practicality of any work concerned; and
- (j) In the case of an existing building, any special historical or cultural value of that building; and
- (k) Any other matter that the territorial authority considers to be relevant.

#### *[Access to buildings by persons with disabilities]*

#### **[47A Access and facilities for persons with disabilities to and within buildings]**

- (1) In any case where provision is being made for the construction or alteration of any building to which the public are to be admitted, whether on payment or otherwise, reasonable and adequate provision by way of access, parking provisions, and sanitary conveniences, shall be made for persons with disabilities who may be expected to visit or work in that building and carry out normal activities and processes in that building.
- (2) Notwithstanding the provisions of subsection (1) of this section, in respect of the alteration of any existing building or premises, the Building Industry Authority may at any time by determination under Part 3 of this Act provide for a waiver or modification from all or any of the requirements of this section if, having regard to all the circumstances, the Building Industry Authority determines that it is reasonable to grant the waiver or modification.
- (3) Any provision that is made to meet the requirements of disabled persons in accordance with New Zealand Standard Specification No 4121 (being the code of practice for design for access and use of buildings by persons with disabilities) and any amendments thereof (whether made before or after the commencement of this subsection), or in accordance with any standard specification that is in substitution therefor, shall, in respect of matters subject to this Act, be deemed to be one of the documents establishing compliance with the building code for the purposes of section 49 of this Act.
- (4) The provisions of this section shall apply to, but shall not be limited to, buildings, and parts of buildings, (including driveways, accessways, and passages within and between complexes and developments, and associated landscaping, if any) that are intended to be used for or associated with one or more of the following purposes:
  - (a) Land, sea, and air passenger transport terminals and facilities and interchanges, whether wholly on land or otherwise:
  - (b) Public toilets wherever situated:
  - (c) Banks:
  - (d) Childcare centres and kindergartens:
  - (e) Day-care centres and facilities:
  - (f) Commercial buildings and premises for business and professional purposes, including computer centres:
  - (g) Central, regional, and local government offices and facilities:
  - (h) Courthouses:
  - (i) Police stations:
  - (j) Hotels, motels, hostels, halls of residence, holiday cabins, groups of pensioner flats, boardinghouses, guest houses, and other premises providing accommodation for the public:
  - (k) Hospitals, whether public or private, nursing homes, and old people's homes:
  - (l) Medical and dental surgeries, and medical and paramedical and other primary health care centres:
  - (m) Educational institutions, including public and private primary, intermediate, and secondary schools, universities, polytechnics, and other tertiary institutions:
  - (n) Libraries, museums, art galleries, and other cultural institutions:
  - (o) Churches, chapels, and other places of public worship:
  - (p) Places of assembly, including auditoriums, theatres, cinemas, halls, sports stadiums, conference facilities, clubrooms, recreation centres, and swimming baths:
  - (q) Shops, shopping centres, and shopping malls:
  - (r) Restaurants, bars, cafeterias, and catering facilities:
  - (s) Showrooms and auction rooms:
  - (t) Public laundries:

- (u) Petrol and service stations:
  - (v) Funeral parlours:
  - (w) Television and radio stations:
  - (x) Car parks, parking buildings, and parking facilities:
  - (y) Factories and industrial buildings where more than 10 persons are employed:
  - (z) Other buildings, premises, or facilities to which the public are to be admitted, whether on payment or otherwise.
- (5) Where any provision required by this section is made at a building in compliance therewith, a notice or sign that indicates in accordance with the international access symbol that provision is made for the needs of persons with disabilities shall be displayed outside the building or so as to be visible from outside it.
- (6) For the purposes of this section, the term “person with a disability” means any person who suffers from physical or mental disability to such a degree that he or she is seriously limited in the extent to which he or she can engage in the activities, pursuits, and processes of everyday life.]

## Part 6 National building code

(s 48 to s 50)

### 48 Regulations

- (1) The Governor-General may from time to time, by Order in Council, make regulations, to be called the building code, for prescribing the functional requirements for buildings and the performance criteria with which buildings must comply in their intended use.
- (2) In addition to the power conferred by subsection (1) of this section, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
- (a) Prescribing procedures for regulating and controlling the construction, maintenance, and demolition of buildings:
  - (b) Prescribing the form or content of applications, or any other documentation or information, as may be required under this Act:
  - (c) Prescribing transitional and savings provisions relating to the coming into force of this Act, which may be in addition to or in place of any of the provisions of section 93 of this Act:
  - (d) Determining or fixing scales of charges or other criteria for the purpose of fixing charges by the Authority under section 23 of this Act:
  - (e) Providing for such other matters as are contemplated by, or necessary for giving full effect to, this Act and for its due administration.
- (3) Any regulation made under this section shall be made on the advice of the Minister following the recommendation of the Authority.
- (4) Before making any recommendation for the purposes of subsection (1) or subsection (2) of this section the Authority shall—
- (a) Do everything reasonably practicable on its part to advise all persons and organisations, who or which in its opinion will be affected by any regulations made in accordance with the recommendation, of the proposed terms of the regulations, and give such persons and organisations a reasonable opportunity to make submissions on them to the Authority; and
  - (b) Give notice in the *Gazette*, not less than 21 days before making the recommendation, of its intention to make the recommendation and state briefly in the notice the matters to which the recommendation relates; and
  - (c) Make copies of every recommendation available for inspection by any person who so requests before any regulation is made in accordance with the recommendation.
- (5) Subsection (4) of this section shall not apply in respect of any regulation if it is desirable in the public interest that the regulation be made urgently.
- (6) A failure to comply with subsection (4) of this section shall not affect the validity of any Order in Council made under this section.
- (7) All regulations made under subsection (2)(c) of this section that are still in force on the day that is 5 years after the date of commencement of this section shall expire at the close of that day.

### 49 Documents for use in establishing compliance with building code

- (1) The Authority may prepare or may approve, in whole or in part and subject to any modification it considers necessary or desirable, any document for use in establishing compliance with the provisions of the building code.
- (2) Any document, prepared or approved by the Authority under subsection (1) of this section shall be accepted for the purposes of this Act as establishing compliance with those provisions of the building code to which it relates, but it shall not be the only means of establishing such compliance.
- (3) Preparation or approval of any document under subsection (1) of this section shall not include approval of any provision of that document which—
- (a) Relates to contractual or commercial requirements; or
  - (b) Relates to regulatory approvals, dispensations, or waivers; or
  - (c) Is inconsistent with the provisions of this Act or of any regulations made under this Act.
- (4) Any document prepared or approved under subsection (1) of this section shall be subject to this Act and the building code.
- (5) Any approval given by the Authority under this section shall be an approval of the document as it existed at the time of the approval, unless otherwise specified by the Authority.
- (6) The Authority may withdraw approval of any document prepared or approved under subsection (1) of this section, but the withdrawal shall not be retrospective.
- (7) Where a Minister of the Crown has submitted to the Authority a document that has been previously approved by a Minister of the Crown under any other enactment, the Authority shall not modify that document without the approval of the Minister administering that enactment.

- (8) Subsection (7) of this section shall not apply to any document approved by a Minister of the Crown pursuant to section 10(4) of the Standards Act 1988.
- (9) When preparing or proposing to modify any document under this section, the Authority shall do everything reasonably practicable on its part to advise all persons and organisations, who or which in its opinion will be affected by that document, of the proposed terms of the document, and give such persons or organisations a reasonable opportunity to make submissions on them to the Authority.
- 50 Establishing compliance with building code**
- (1) A territorial authority shall accept the following documents as establishing compliance with the provisions of the building code:
- (a) A building certificate or code compliance certificate to that effect issued by a building certifier under section 43 or section 56 of this Act;
  - (b) A determination to that effect given by the Authority under section 20 of this Act;
  - (c) A current and relevant accreditation certificate to that effect issued by the Authority under section 59 of this Act;
  - (d) Compliance with the provisions to that effect of a document prepared or approved by the Authority under section 49 of this Act.
  - [(e) In so far as compliance with any requirements imposed by any regulations made under the Electricity Act 1968 or the Gas Act 1982 is compliance with any particular provisions of the building code, a certificate issued pursuant to either of those Acts or the Electrical Registration Act 1979 or pursuant to any such regulations and to the effect that any energy work complies with any such requirements.]
  - [(f) In so far as compliance with any requirements imposed by any regulations made under the Electricity Act 1992 or the Gas Act 1992 is compliance with any particular provisions of the building code, a certificate issued pursuant to any such regulations and to the effect that any energy work complies with any such requirements.]
- (2) A building certifier shall accept the documents set out in paragraphs (b), (c), [(d), [(e), and (f)]] of subsection (1) of this section as establishing compliance with the provisions of the building code.
- (3) For the avoidance of doubt, no civil proceedings may be brought against a territorial authority or a building certifier for anything done in good faith in reliance on a document set out in subsection (1) or subsection (2) of this section.

## Part 7

### Building certifiers

(s 51 to s 57)

#### *Applications to Authority*

##### **51 Applications for approval as building certifiers**

- (1) Any person may apply to the Authority for approval as a building certifier.
- (2) Every application shall be in the prescribed form and shall specify the provisions of the building code in respect of which the applicant wishes to be approved as a building certifier.
- (3) Except as provided by subsection (5) of this section, each application shall include—
- (a) Information that will enable the Authority to decide whether or not the applicant has appropriate qualifications, adequate relevant experience and sufficient knowledge of the building code, and, if so,—
    - (i) The specific provisions of the building code in respect of which the applicant should be approved; and
    - (ii) Any limitations which should be placed on such approval:
  - (b) Evidence that a scheme of insurance approved by the Authority will apply in respect of any insurable civil liability of the applicant that might arise out of the issuing by the applicant of a code compliance certificate under section 43 of this Act or a building certificate under section 56 of this Act.
- (4) Each application shall be accompanied by the fee (if any) charged by the Authority under section 23 of this Act.
- (5) In the case of an applicant who is or has been a building certifier and who is applying for continuation or renewal of approval in respect of the same provisions of the building code, the application need not be accompanied by the documentation required by subsection (3) (a) of this section but instead shall be accompanied by—
- (a) A list of any additional qualifications that the applicant has acquired since that person's previous application; and
  - (b) A request for any changes to any limitations imposed on the previous approval, with reasons for the request.

##### **52 Processing applications for approval as building certifiers and appeals**

- (1) The Authority may require the applicant for approval as a building certifier to provide further information in support of the application.
- (2) If the applicant is unable to comply with any requirement of the Authority under subsection (1) of this section, the applicant shall inform the Authority of the reasons why the applicant is unable to comply.
- (3) The application shall be considered by the Authority as soon as practicable.
- (4) The Authority shall notify the applicant not less than 10 days before any meeting at which it is intended to consider the application.
- (5) The applicant may, and if the Authority so requires the applicant shall, appear and be heard at a meeting of the Authority.
- (6) After considering an application for approval as a building certifier the Authority shall grant the approval if it is satisfied—
- (a) That the applicant has—
    - (i) Appropriate qualifications; and
    - (ii) Adequate relevant experience; and
    - (iii) Sufficient knowledge of the building code; and
    - (iv) Complied with any other prescribed conditions; and
  - (b) That the applicant is a fit and proper person as provided for in Schedule 2 to this Act; and
  - (c) That a scheme of insurance approved by the Authority will apply in respect of any insurable civil liability of the applicant that might arise out of the issuing by the applicant of a code compliance certificate under section 43 of this Act or a building certificate under section 56 of this Act.

- (7) For the purposes of this section, appropriate qualifications shall include—
- (a) Those qualifications (if any) that may be prescribed in relation to the provisions of the building code specified in the application; and
  - (b) Evidence of training in the skills relevant to the provisions of the building code specified in the application, whether or not such training consisted of formal courses and examinations.
- (8) If the Authority declines an application it shall notify the applicant in writing, specifying the reasons.
- (9) Any applicant aggrieved by any decision of the Authority refusing to grant approval as a building certifier under this section may, within 21 days after the date of the decision or within such further time as the Court on application may allow, appeal against that decision, in accordance with the District Courts Rules 1948, to the District Court.
- (10) For the purposes of hearing the appeal the Court shall have all the powers vested in it in its civil jurisdiction.
- (11) On hearing the appeal the Court may make such order as it thinks fit, and every such order shall be binding on the appellant and the Authority.

### **53 Register of building certifiers**

- (1) The Authority shall establish and maintain a register of building certifiers.
- (2) Whenever the Authority approves a person as a building certifier it shall cause to be entered on the register—
  - (a) The date of approval; and
  - (b) The name and address of the person approved; and
  - (c) The specific provisions of the building code in respect of which the person is approved; and
  - (d) Any limitations on the matters in respect of or in connection with which the person may certify compliance with those provisions; and
  - (e) The date of expiry of approval, being the first anniversary of the date of approval or such other date as the Authority may direct, but not later than the second anniversary of the date of approval; and
  - (f) Such other matters relating to the approval as the Authority directs.
- (3) The specific provisions of the building code in respect of which the building certifier is approved may be identified by reference to the numbering of the provisions, or to a description of the matters covered by the provisions, or to the areas of expertise concerned.
- (4) A certificate under this Part of this Act purporting to be under the hand of a person duly authorised by the Authority to issue such a certificate shall, in the absence of proof to the contrary, and without proof of the signature appended to the certificate, be sufficient evidence of the matters therein specified.

### *Complaints concerning building certifiers*

#### **54 Complaints to Authority**

- (1) If the Authority receives any complaint about, or has cause to query the conduct or ability of, a building certifier, the Authority shall appoint a person, not being a member of the Authority, to investigate the complaint or query.
- (2) The person appointed under subsection (1) of this section shall—
  - (a) Inform the complainant (if any) that the complaint is under investigation and invite the complainant to make a further submission; and
  - (b) Inform the building certifier of the nature of the complaint or query and invite the building certifier to make a submission; and
  - (c) Obtain such other information as the person considers relevant.
- (3) As soon as practicable after the complaint is received, the person appointed under subsection (1) of this section shall consider any available relevant information and shall refer the matter to the Authority with a recommendation that the Authority either take no further action or conduct an inquiry.
- (4) The Authority shall as soon as practicable—
  - (a) Notify the complainant (if any) and the building certifier of—
    - (i) Any information obtained under subsection (2)(c) of this section; and
    - (ii) The action being taken; and
    - (iii) The date of the meeting of the Authority at which the Authority will consider any recommendation under subsection (3) of this section, being a date not less than 20 days after the date of the notification; and
  - (b) Invite the complainant to make a written submission for consideration at that meeting; and
  - (c) If a recommendation to conduct an inquiry is made, notify the building certifier of the reasons for that recommendation.
- (5) At the meeting referred to in subsection (4) of this section the Authority shall accept the recommendation made under subsection (3) of this section unless persuaded otherwise by any submissions received for consideration at that meeting.

#### **55 Inquiry by Authority**

- (1) If the Authority decides to conduct an inquiry into the conduct or ability of a building certifier, it shall—
  - (a) Appoint a person, not being a member of the Authority, to present to the inquiry information relevant to the complaint or query; and
  - (b) Notify the complainant (if any) and the approved certifier of the place and time at which the inquiry will be held and at which they will be able to appear and be heard before the Authority.
- (2) A reasonable time before the inquiry is to be held, the person appointed under subsection (1)(a) of this section shall notify the building certifier of the information to be presented to the inquiry.
- (3) An inquiry shall be a meeting of the Authority at which the Authority is bound by the rules of natural justice.
- (4) If, after completing its inquiry under this section, the Authority is satisfied that the building certifier—
  - (a) Has been negligent as a building certifier; or
  - (b) Is incompetent to act as a building certifier; or



- (c) Is unable for any reason to continue to act as a building certifier; or
- (d) For any other reason should not continue to be a building certifier on the terms of the approval or on any terms—  
the Authority may exercise any one or more of the following powers:
  - (e) It may reprimand the building certifier:
  - (f) It may require the building certifier to pay the costs of or incidental to the inquiry:
  - (g) It may require the building certifier to give an undertaking to refrain from some specific conduct:
  - (h) It may suspend the approval for a period not exceeding 3 years:
  - (i) It may amend or cancel the approval.
- (5) Where the finding of the Authority is favourable to the building certifier, the Authority shall pay the building certifier's actual and reasonable costs.
- (6) Where the Authority makes an order under this section in relation to any person the Authority shall notify that person in writing of the making of the order and the reasons for it.

### *Certification by building certifiers*

#### **56 Issue of building certificates**

- (1) A building certificate issued by a building certifier under this section shall—
  - (a) Be in writing; and
  - (b) Identify the specific item or items that are the subject of the certificate, being items not excluded by any limitation on the building certifier's approval; and
  - (c) Identify the specific provisions of the building code with respect to which those items are certified, being specific provisions in respect of which the building certifier is approved; and
  - (d) Be signed by the building certifier; and
  - (e) Be accompanied by any relevant project information memorandum.
- (2) A building certifier may issue a building certificate, in the prescribed form, pursuant to this section if the building certifier is satisfied on reasonable grounds that—
  - (a) The proposed building work would comply with applicable provisions of the building code if the construction or alteration is properly completed in accordance with the plans and specifications; or
  - (b) The building work complied with the applicable provisions of the building code on the date of certification.
- (3) A building certifier may issue a code compliance certificate, in the prescribed form, pursuant to section 43 of this Act if the building certifier is satisfied on reasonable grounds that the building work complied with the provisions of the building code on the date of certification.
- [3(A) Subject to subsections (2) and (3) of this section, a building certifier may, at the building certifier's discretion, accept a producer statement establishing compliance with all or any of the provisions of the building code.]
- (4) Where a building certifier considers on reasonable grounds that particular building work does not comply with particular items of the building code, that certifier shall forthwith notify the territorial authority that a notice to rectify should be issued in respect of that building work.
- (5) A building certifier shall not issue a building certificate or a code compliance certificate unless a scheme of insurance approved by the Authority applies in respect of any insurable civil liability of the building certifier that might arise out of the issuing of the certification.
- (6) No building certifier shall issue a building certificate or a code compliance certificate in respect of a building in which the building certifier has a professional or financial interest.
- (7) A person shall be regarded as having a professional or financial interest in a building if that person—
  - (a) Is or has been responsible for the design or construction of any part of the building in any capacity; or
  - (b) Is a partner of, or is in the employment of, a person who has a professional or financial interest in the building; or
  - (c) Is, or any nominee of that person's is, a member, officer, or employee of a company or other body which has a professional or financial interest in the building:  
Provided that this paragraph shall not apply to officers or employees of any Government department or Crown agency, territorial authority, or other body that acts pursuant to law for public purposes and not for its own profit.
- (8) For the purposes of this section—
  - (a) A person shall be regarded as having a professional or financial interest in the work even if having that interest only as a trustee for the benefit of some other person:
  - (b) In the case of married people not living apart, the interest of one spouse shall, if known to the other, be deemed to be also an interest of the other.
- (9) For the purposes of this section—
  - (a) Involvement with the building as an approved certifier; and
  - (b) Entitlement to any fee paid for acting as a building certifier—  
shall not be regarded as constituting a professional or financial interest.

#### **57 Terms of engagement of building certifiers**

- (1) The issuing of a code compliance certificate under section 43 of this Act or a building certificate under section 56 of this Act shall not be a condition of entitlement to any fee to be paid to a building certifier.
- (2) A building certifier shall not, in the terms of engagement, limit any civil liability which might arise from the issue of a building certificate or code compliance certificate by that building certifier.
- (3) The engagement of a building certifier to inspect specified items while building work is being undertaken shall be subject to the following provisions:

- (a) The building certifier shall report to the territorial authority in the prescribed manner:
  - (b) The building certifier shall notify the territorial authority if the building certifier—
    - (i) Becomes or expects to become unable to inspect all or any of the specified items for any reason; or
    - (ii) Believes that there is a contravention of the provisions of the building code in respect of the specified items, and has directed the person carrying out the work to rectify the contravention, but that person has not done so within a reasonable time:
  - (c) The owner or the person undertaking the work concerned shall notify the territorial authority if it appears to that person that the building certifier is no longer willing or able to inspect the specified items, and shall give a copy of any such notification to the building certifier if it is practicable to do so.
- (4) On receiving notification under subsection (3)(b) or (c) of this section, the territorial authority shall amend the building consent accordingly, and shall make such inspections and issue such notices to rectify as it considers necessary.

## Part 8

### Accreditation of building products and processes

(s 58 to s 63)

#### 58 Processing applications for accreditation

- (1) The proprietor or the proprietor's agent may apply to the Authority for the accreditation of any proprietary item, being a material, method of construction, design, or component relating to building work.
- (2) An application made under subsection (1) of this section shall be accompanied by an appraisal complying with subsections (3) and (4) of this section and by the fee charged by the Authority.
- (3) An appraisal shall be a detailed and reasoned technical opinion issued by an appropriately qualified organisation having no proprietary interest in the appraised item.
- (4) An appraisal shall include—
  - (a) Identification of the appraised item and its purpose, being a purpose within the scope of the building code; and
  - (b) Identification of the manufacturer (and the installer if necessary); and
  - (c) An opinion that the product is suitable for its purpose provided it is manufactured and installed under specified conditions; and
  - (d) A specification of the product and, if necessary, of the manner of its installation; and
  - (e) The specific conditions to which the opinion is subject; and
  - (f) The basis of appraisal; and
  - (g) A list of other documents (if any) that need to be referred to in order to check that an individual application of the appraised item conforms to the conditions.

#### 59 Granting of accreditation

- (1) After considering any report and recommendations obtained by the Authority, the Authority shall accredit the item if it is satisfied that the item, if used under the conditions specified in the appraisal, will comply with specified provisions of the building code.
- (2) In determining any application for accreditation the Authority may obtain any further advice necessary to assist it in reaching its decision.
- (3) Where the Authority accredits an item under this section, the Authority shall issue to the applicant a certificate of accreditation in respect thereof.
- (4) A certificate of accreditation shall state that the item concerned has been appraised by a named appraisal organisation and, if used under the conditions specified in that appraisal, is to be accepted as complying with specified provisions of the building code.
- (5) A certificate of accreditation shall be subject to such conditions and qualifications and shall be issued for such period as are stated in the certificate or in the corresponding appraisal.
- (6) A certificate under this Part of this Act purporting to be under the hand of a person duly authorised by the Authority to issue such a certification shall, in the absence of proof to the contrary, and without proof of the signature appended to the certificate, be sufficient evidence of the matters therein specified.
- (7) If the Authority refuses to accredit an item under this section it shall notify the applicant, in writing, specifying the reasons.

#### 60 Renewal, extension, or amendment of accreditation

The proprietor of an accredited item or the proprietor's agent may apply to the Authority for the renewal, extension, or amendment of the certificate of accreditation, and the provisions of sections 58 and 59 of this Act shall apply, with any necessary modifications, in respect of any such application.

#### 61 Revocation of accreditation

- (1) The Authority may at any time revoke an accreditation if it is satisfied that—
  - (a) The accreditation has been obtained by fraud, misrepresentation, or concealment of facts; or
  - (b) The accredited item—
    - (i) Is no longer satisfactory; or
    - (ii) Differs from, or fails to comply with, the specification of that item as at the time the accreditation was granted; or
  - (c) Any other accreditation, certificate of accreditation, or similar authorisation issued or granted in respect of that item, or the corresponding appraisal, has been revoked or cancelled for any reason other than failure to renew the accreditation, certificate, or authorisation.
- (2) Where the Authority determines to revoke an accreditation the Authority shall notify the holder of the certificate in writing of the Authority's determination and the reasons for it.

**62 Certain information to be confidential**

- (1) Notwithstanding the provisions of the Official Information Act 1982, the information contained in any application for accreditation shall be regarded as confidential and shall not be disclosed (except pursuant to this Part of this Act) by any member or employee of, or person engaged by, the Authority unless disclosure is authorised in writing by the person who made the application.
- (2) Any member or employee of, or person engaged by, the Authority who discloses any information, whether orally or in writing, in contravention of subsection (1) of this section commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

**[63 Fair Trading Act 1986 and Consumer Guarantees Act 1993 not affected**

Nothing in this Part of this Act shall derogate from the provisions of the Fair Trading Act 1986 or the Consumer Guarantees Act 1993.]

**Part 9****Legal proceedings and miscellaneous provisions**

(s 64 to s 93A)

***Dangerous and insanitary buildings*****64 Buildings which are deemed to be dangerous or insanitary**

- (1) A building shall be deemed to be dangerous for the purposes of this Act if it is—
- (a) A building which, in the ordinary course of events (excluding earthquakes), is likely to cause injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property or damage to any other property; or
- (b) A building which, by reason of fire hazard and occupancy of the building, would be likely to give rise to an almost certain loss of life in a fire.
- (2) For the purposes of subsection (1)(b) of this section, a building shall be deemed to be dangerous by reason of fire hazard and occupancy [if a sufficient fire hazard exists, or] if there is a change of fire hazard or a change of occupancy sufficient to ensure that—
- (a) In the case of a building with a high or abnormal fire hazard which was previously not used for human occupation, the building is now being used for human occupation; or
- (b) In the case of a building which has an occupancy which involves one or more household units, other type of accommodation or residential purpose, the fire hazard is high or abnormal or has been increased to an unacceptable level; or
- (c) In the case of a building which has an occupancy which provides a place for members of the public to gather for a common purpose, the fire hazard is high or abnormal or has been increased to an unacceptable level; or
- (d) In the case of a building used for the storage or processing of hazardous substances, the fire hazard is sufficient to endanger—
- (i) Persons who work in the building or on land adjoining the building; or
- (ii) Persons who are on property adjoining that land or building; or
- (e) In the case of a building in which the safety of people is directly dependent on the ongoing functioning of specified life safety features or systems, there is a failure of those features or systems being properly maintained.
- (3) For the purpose of determining whether any building is of any of the categories described in subsection (2) of this section, the territorial authority may seek advice from such members of the New Zealand Fire Service as the Fire Service National Commander deems competent to give such advice, and, where such advice is sought, the territorial authority shall have due regard to that advice.
- (4) A building shall be deemed to be insanitary if—
- (a) It is so situated or of such construction or in such a state of disrepair as to be offensive or likely to be injurious to health; or
- (b) Its provisions against moisture penetration are so insufficient or in such a defective condition as to cause dampness in the building or in any adjoining building; or
- (c) It is without a supply of potable water adequate for its intended use; or
- (d) It has inadequate sanitary facilities for its intended use.

**65 Powers of territorial authorities in respect of dangerous or insanitary buildings**

- (1) Without limiting its powers under Part 5 of this Act, a territorial authority, on being satisfied that any building is a building deemed to be dangerous under section 64 of this Act, may—
- (a) Put up a hoarding or fence so as to prevent persons approaching nearer than is safe;
- (b) Except as provided in section 74(1)(b) of this Act, give notice in accordance with section 71 of this Act requiring work to be done on the building to reduce or remove the danger within a time specified in the notice, being not less than 10 days.
- (2) On being satisfied that any building is a building deemed to be insanitary under section 64 of this Act, a territorial authority may give notice in accordance with section 71 of this Act requiring work to be done on the building to prevent it from remaining insanitary.
- (3) In forming any requirement under subsection (1) or subsection (2) of this section, the territorial authority shall have due regard to the provisions of the building code and the matters set out in section 47 of this Act.
- (4) If, within the time specified in a notice under subsection (1) or subsection (2) of this section or within such further time as the territorial authority may allow, the work required by the notice is not completed or not proceeding with all reasonable expedition, the territorial authority, upon giving the owner of the building not less than 10 days' notice of its intention to do so, may apply to the District Court for an order authorising the territorial authority to carry out the work.
- (5) Where a territorial authority carries out work under the authority of an order made under subsection (4) of this section, the owner of the building shall be liable for the costs of the work; and the territorial authority may recover those costs from the owner, and the amount recoverable by the territorial authority shall be a charge on the land on which the work was done.
- (6) Work required or authorised to be done under this section may include the demolition of all or part of a building.
- (7) The provisions of this section are in addition to and not in derogation of the powers of a territorial authority under section 70 of this Act.

**66 Buildings which are deemed to be earthquake prone**

- (1) Subject to subsection (2) of this section, a building shall be deemed to be earthquake prone for the purposes of this Part of the Act if, having regard to its condition and to the ground on which it is built and because of its construction being either wholly or substantially

of unreinforced concrete or unreinforced masonry, the building will have its ultimate load capacity exceeded in a moderate earthquake and thereby would be likely to suffer catastrophic collapse causing bodily injury or death to persons in the building or to persons on any other property or damage to any other property.

- (2) Subsection (1) of this section shall not apply to any building which is used wholly or principally for residential purposes, unless the building is of 2 or more storeys and contains 3 or more household units.
- (3) Without limiting its powers under [Part 5] of this Act, a territorial authority, on being satisfied that any building is a building deemed to be earthquake prone, may—
  - (a) Put up a hoarding or fence so as to prevent persons approaching nearer than is safe; and
  - (b) Except as provided in section 74(1)(b) of this Act, give notice in accordance with section 71 of this Act requiring work to be done on the building to reduce or remove any danger within a time specified in the notice, being not less than 10 days.

- (4) For the purposes of this section, in relation to any building that is deemed to be earthquake prone,—

**Masonry** means any building work in units of burnt clay, concrete, or stone laid to a bond in and joined together with mortar:

**Moderate earthquake** means an earthquake that would subject a building to seismic forces one-half as great as those specified in New Zealand Standard Model Building Bylaw NZS 1900, Chapter 8: 1965 (notwithstanding its revocation) for the zone (as described in that New Zealand Standard) in which the building is situated:

**Unreinforced masonry** means masonry classified as unreinforced by New Zealand Standard Model Building Bylaw NZS 1900, Chapter 9.2: 1964 (notwithstanding its revocation).

#### **67 Objections on earthquake prone buildings**

- (1) Within 10 days after the notice is given under section 66(3)(b) of this Act, the owner may object in writing to the territorial authority against the requirements of the notice, and the notice shall thereupon be deemed to be suspended pending the determination of the objection, or, where application is made to the Court to confirm the notice, pending the decision of the Court.
- (2) Where any such objection is received by the territorial authority, the territorial authority shall, as soon as practicable, inquire into and dispose of the objection.
- (3) No objection shall be dismissed unless reasonable notice of the date and time when and the place where it is to be considered has been given to the objector, who, if present at the appointed time and place, shall be entitled to be heard and submit evidence and call witnesses in support of his or her objection; and any objector may be represented at the hearing by counsel or otherwise.
- (4) Where on inquiry into the objection the territorial authority reaffirms its requirements, the territorial authority shall apply to a District Court for an order confirming the notice given by the territorial authority.

#### **68 Hearing by District Court**

- (1) The District Court hearing an application under section 67(4) of this Act shall hear the application with the assistance of 2 assessors, to be appointed by the Court for the purposes of that application from a panel of appropriate persons from time to time appointed by the Authority and published by the Authority in the *Gazette*; and the sole function of the assessors shall be to assist the Court in determining the application, and the application shall be determined by the Court alone.
- (2) If any assessor dies or is for any reason unable to act or to continue to act, another assessor may be appointed to act in the assessor's place, whether or not the hearing of the application has commenced.
- (3) There shall be paid to assessors, out of money appropriated by Parliament for the purpose, remuneration by way of fees or allowances and travelling allowances or expenses in accordance with the Fees and Travelling Allowances Act 1951, and that Act shall apply accordingly as if those assessors were members of a statutory Board within the meaning of that Act.
- (4) On the hearing of the application, the Court may—
  - (a) Confirm the notice without modification; or
  - (b) Confirm the notice subject to modification; or
  - (c) Extend the time specified in the notice for removing the danger; or
  - (d) Set aside the notice.

#### **69 Appeal to High Court**

- (1) Where any party to the proceedings is dissatisfied with any determination of a District Court on any application under section 67 of this Act as being erroneous in point of law, the party may appeal to the High Court for the opinion of that Court on a question of law only.
- (2) Part 4 of the Summary Proceedings Act 1957, so far as it relates to appeals by way of case stated on a question of law only, shall apply, so far as it is applicable, to every appeal under this section.
- (3) The decision of the High Court on any appeal under this section shall be final.
- (4) The operation of the order against which an appeal is made under this section shall be suspended until the appeal is determined.

#### **70 Measures to avert immediate danger or rectify insanitary conditions**

- (1) If, arising from the state of any building,—
  - (a) Immediate danger to the safety of people is apprehended in terms of section 64 or section 66 of this Act; or
  - (b) Immediate action for the rectification of insanitary conditions is necessary—
 the chief executive of the territorial authority may, by warrant under the chief executive's hand, cause any measures to be taken which are necessary in the chief executive's judgement to secure the safety of the public or to rectify the insanitary conditions; and the territorial authority may recover the costs thereof from the owner, and the amount recoverable by the territorial authority shall be a charge on the land on which the building is situated.
- (2) Where a chief executive issues a warrant under subsection (1) of this section, the territorial authority, upon completion of the measures specified in the warrant, shall apply to a District Court for confirmation of the warrant.
- (3) On the hearing of an application under this section, the District Court may—
  - (a) Confirm the warrant without modification; or
  - (b) Confirm the warrant subject to modification; or

- (c) Set aside the warrant.
- (4) A territorial authority shall not be under any liability arising from the issue, in good faith, of a warrant pursuant to subsection (1) of this section.

#### **71 Notices in respect of dangerous or insanitary buildings**

- (1) Without limiting section 87 of this Act, any notice given by a territorial authority under section 65 or section 66 of this Act shall be in writing fixed to the building concerned; and a copy of the notice shall be given to—
- The owner of the building; and
  - The occupier of the building; and
  - Every person having an interest in the land on which the building is erected under any mortgage or other encumbrance, being an interest registered under the Land Transfer Act 1952; and
  - Every person claiming an interest in the land which is protected by a caveat lodged under section 137 of the Land Transfer Act 1952 and for the time being in force; and
  - Any statutory organisation that has authority to classify land or buildings for any purpose, where that land or building has been so classified.
- (2) Notwithstanding the other provisions of this section, if any such notice is fixed on the building, that notice shall not be invalid solely because a copy of it has not been given to any or all of the persons mentioned in this section.

#### **72 Authority may report to District Court**

The District Court may, at its discretion, request the Authority to report on any matter under section 65 of this Act the Court considers relevant, and the Authority shall report accordingly.

#### **73 Buildings to which sections 64 to 71 apply**

Sections 64 to 71 of this Act shall apply to all buildings whenever constructed.

#### ***Territorial authority may carry out work***

#### **74 Work may be done by territorial authority**

- (1) Where, under this Act or the building code, any person is required to do any work on or in connection with any building and—
- That person, after notice requiring such work to be undertaken, makes default in commencing to comply with the notice within the time specified in the notice in that behalf or, if no such time is specified, within a reasonable time; or
  - If any such work is certified by any officer of the territorial authority to be of an urgent nature, and the contents of that certificate have been communicated to that person, and the default is made for 24 hours from the time of that communication; and
  - In either case that person does not immediately proceed with the work with all reasonable expedition—
- the territorial authority may enter upon the land on which the building is situated and itself do that work and recover the costs thereof from the owner, and the amount recoverable by the territorial authority shall be a charge on the land.
- (2) The power to enter upon land conferred by subsection (1) of this section shall be subject to the following conditions:
- Entry upon the land shall only be made by an employee, contractor, or agent of the territorial authority authorised by it in writing:
  - Entry shall be made at reasonable times:
  - The person entering shall carry with him or her and shall produce on initial entry, if required to do so, evidence of his or her authority to enter and of his or her identity:
  - As soon as practicable after entry is made, the territorial authority shall advise the owner and the occupier of the land, in writing, of the entry and the reasons for it.

#### **75 Recovery of costs when territorial authority does work on default**

- (1) Where a territorial authority is entitled under this Act to recover the costs of doing any work from the owner of any building or land, the money payable shall be a charge on the land, and the provisions of ... the [Local Government Act 2002] shall apply accordingly, but the person primarily liable for payment shall be the owner.
- (2) The territorial authority may destroy or sell or otherwise dispose of any materials resulting from the doing of any work by the authority and, in the case of the sale of any materials, shall apply the proceeds of the sale towards payment of the amount payable to the territorial authority under subsection (1) of this section and pay the surplus (if any) to the owner.
- (3) The exercise by the territorial authority of the powers conferred by this section shall not relieve any person from any penalty for failure to comply with the requirements of any notice under this Act.
- (4) Any work done or to be done by the territorial authority pursuant to this section is hereby declared to be a public work for the purposes of the Public Works Act 1981.

#### ***Inspections by territorial authority***

#### **76 Inspection by territorial authority**

- (1) For the purposes of this Part of this Act, **inspection** means the taking of all reasonable steps to ensure—
- That any building work is being done in accordance with a building consent; or
  - That in respect of any building concerning which a compliance schedule is issued, the inspection and maintenance provisions of that compliance schedule are being complied with; or
  - That buildings remain safe, sanitary, and have means of escape from fire; or
  - That buildings which, in the opinion of the territorial authority, are likely to be deemed to be dangerous or insanitary under section 64 of this Act come to the attention of the local authority.
- (2) The provisions (if any) as to inspection during the carrying out of building work endorsed on any building consent and the compliance schedule (if any) shall be read as including the provisions of this section.
- (3) It shall be a condition of every building consent that the territorial authority's authorised officers shall be entitled, at all times during normal working hours or while building work is being done,—

- (a) To inspect—
  - (i) Any land on which building work is or is proposed to be undertaken; and
  - (ii) Any building work that has been or is being done on or off the building site; and
  - (iii) Any building; and
- (b) To enter any premises for that purpose or for the purpose of determining whether the building is dangerous or insanitary within the meaning of section 64 of this Act or is earthquake prone within the meaning of section 66 of this Act.
- (4) The owner and occupier of any building and every person engaged in any building work shall give every reasonable facility to enable the territorial authority's authorised officers to inspect all or any part of the building or the building work.
- (5) Every officer of a territorial authority who is authorised by this Act, or by an order of the District Court made under this section, to enter private land shall, if requested on entry or at any subsequent time, produce to the occupier of the building a written warrant issued under [section 174 of the Local Government Act 2002].
- (6) *Repealed.*
- (7) Nothing in this section shall authorise entry to any household unit being used as such without the consent of the occupier of the household unit or an order of the District Court made under this section.
- (8) Where any authorised officer of a territorial authority wishes to enter, for the purposes of this section, any household unit being used as such, the officer may, upon giving the occupier of the household unit not less than 10 days' notice of that officer's intention to do so, apply to the District Court for an order under this section.
- (9) On being satisfied that the proposed entry is necessary for the purposes of this section, and that the authorised officer has taken all reasonable steps to obtain the consent of the occupier to the proposed entry, the Court may make an order authorising any officer authorised by the territorial authority to enter the household unit in accordance with this section subject to such conditions as the Court thinks fit to impose.
- (10) Before exercising any power of entry pursuant to any such order of the Court, the authorised officer shall serve the order on the occupier of the household unit to which the order relates.
- [11] The powers conferred by this section are in addition to, and not in derogation of, the powers conferred by section 173 of the Local Government Act 2002]

#### **77 Authorisation and responsibilities of enforcement officers**

- (1) A territorial authority may authorise any of its officers to carry out all or any of the functions and powers as an enforcement officer under this Act.
- (2) Every enforcement officer shall be supplied with a warrant by the territorial authority, and that warrant shall clearly state the functions and powers that the person concerned has been authorised to exercise and carry out under this Act.
- (3) Every enforcement officer who exercises or purports to exercise any power conferred on the officer by or under this Act shall have with him or her, and shall produce if required to do so, his or her warrant and evidence of his or her identity.
- (4) Every enforcement officer who holds a warrant issued under this section shall, on the termination of his or her appointment as such, surrender the warrant to the territorial authority.

#### **[78 Delegation of powers of territorial authority**

The provisions of clause 32 of Schedule 7 of the Local Government Act 2002 apply, with all necessary modifications, in respect of the powers under this Act of every territorial authority]

### ***Further powers of Building Authority***

#### **79 Special powers of Authority for monitoring performance of functions under this Act**

- (1) For the purpose of monitoring the performance by territorial authorities and building certifiers of their functions under this Act, the Authority—
  - (a) Shall have full access at all reasonable times to all records and documents of every description in the possession or control of any territorial authority or building certifier that relate to the performance of functions under this Act, and, subject to subsection (3) of this section, to any place where such records or documents are kept:
  - (b) May require any territorial authority or building certifier to supply any information or answer any question relating to the performance of functions under this Act:
  - (c) May, by notice in writing, require any person having possession or control of any information, records, or documents of any description relating to the performance by any territorial authority or building certifier of functions under this Act, to supply to the Authority, in a manner specified in the notice, all or any such information, records, or documents:
  - (d) Subject to subsection (3) of this section, may enter and re-enter any land or building, with such appliances, machinery, and equipment as are reasonably necessary, to—
    - (i) Make such surveys, investigations, tests, and measurements as are reasonably necessary for the purposes of this section; and
    - (ii) Generally do all such other things as are reasonably necessary to enable such surveys, investigations, tests, and measurements to be carried out.
- (2) Nothing in subsection (1) of this section shall—
  - (a) Derogate from any Act that imposes a prohibition or restriction on the availability of any information; or
  - (b) Authorise the Authority to enter any household unit being used as such without the permission of the occupier of the household unit.
- (3) The power to enter any land or building pursuant to subsection (1) of this section shall be subject to the following conditions:
  - (a) The person entering shall, if requested on entry or at any subsequent time, produce to the owner or occupier of the building the written warrant referred to in subsection (4) of this section:
  - (b) Entry shall be made at reasonable times.

- (4) The Authority shall supply to every person duly authorised to enter land or buildings on behalf of the Authority a written warrant containing—
- A reference to this section; and
  - The full name of the person; and
  - A statement of the powers conferred by this section.
- (5) Every person supplied with a warrant under subsection (4) of this section—
- Shall surrender the warrant to the Authority on the termination of his or her appointment;
  - Shall not purport to act under such a warrant after the termination of his or her appointment with the Authority or, as the case may be, his or her authority to act on behalf of the Authority.
- (6) No person not having a warrant under this section shall represent himself or herself to be the holder of such a warrant.

### *Offences and proceedings*

#### **80 Offences**

- (1) Every person commits an offence who—
- Except as provided in section 32(2) [or section 93A(2)] of this Act, does any building work, or permits any other person to do any building work, otherwise than in accordance with a current building consent;
  - Uses any building, or permits any other person to use any building, for a use for which the building is not safe or sanitary, or has inadequate means of escape from fire;
  - Fails to comply with any notice issued in terms of section 42 or section 45 or section 46 of this Act;
  - Knowingly fails to display any building warrant of fitness required to be displayed under this Act, or displays any false or misleading building warrant of fitness;
  - Intentionally fails to do any act that is directed to be done by this Act or by the building code;
  - Intentionally does any act, other than an act to which paragraph (a) or paragraph (b) of this subsection applies, that is forbidden to be done by this Act or by the building code;
  - Intentionally fails to comply with any direction given by a person authorised to give that direction by this Act or by the building code;
  - Personates a person named in any warrant of appointment supplied under section 77 or section 79 of this Act or mentioned in section 76 of this Act or named on the register of building certifiers;
  - Personates a building certifier or a person acting under warrant or authority issued under this Act or the [Local Government Act 2002];
  - Wilfully obstructs, hinders, or resists any person in the execution of any powers conferred on that person by this Act or by regulations in force under this Act;
  - Wilfully removes or defaces any notice published under this Act, or incites any other person to do so;
  - Knowingly makes any false or misleading statement in any document required to be supplied under this Act or by regulations.
- (2) Every person who commits an offence against subsection (1) of this section is liable on summary conviction—
- In the case of an offence against subsection (1)(a) of this section, to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence has continued;
  - In the case of an offence against subsection (1)(b) and (c) of this section, to a fine not exceeding \$200,000 and, in the case of a continuing offence, to a further fine not exceeding \$20,000 for every day or part of a day during which the offence has continued;
  - In the case of an offence against paragraph (h) or paragraph (i) of subsection (1) of this section, to a fine not exceeding \$10,000;
  - In the case of any other offence against subsection (1) of this section, to a fine not exceeding \$5,000.
- (3) Any person who does any act or makes any default, being an act or default that is an offence against this Act and also an offence against any other Act, may be proceeded against either under this Act or under that other Act, but no person shall be punished under both this Act and also under any other Act in respect of the same act or default.
- [(4) Notwithstanding anything in the Summary Proceedings Act 1957, any information in respect of any offence against subsection (1) of this section may be laid by any person at any time within 6 months after the time when the contravention giving rise to the information first became known, or should have become known, to the Authority, territorial authority, or any other party as defined in section 16 (e) of this Act, as the case may be.]
- [(5) The continued existence of anything, or the intermittent repetition of any actions, contrary to any provision of this Act shall be deemed to be a continuing offence.]

#### **81 Injunctions may be granted by District Court for certain continuing breaches**

- (1) Where it appears to the District Court, on the application of the Authority or any territorial authority or any other party as defined in section 16(e) of this Act, that any person is committing or is about to commit a breach of paragraph (a) [or paragraph (ab)] or paragraph (b) or paragraph (c) of section 80(1) of this Act, or that a building is dangerous or insanitary in terms of section 64 of this Act and the territorial authority has failed to take appropriate action, the District Court may grant an injunction or make some other appropriate order, on such terms as the District Court considers appropriate, restraining the person from engaging in that conduct or for the purpose of ensuring that the person does not engage in that conduct:
- Provided that in the case of a building that does not comply with the provisions of the building code any such injunction or order may be issued in respect of the owner of the building, whether or not the owner has committed any offence against the said section 80, and without prejudice to the liability of any other person.
- (2) On any application under subsection (1) of this section, the District Court may direct the Authority to issue a determination under Part 3 of this Act in respect of such matters as the Court shall specify.
- (3) The District Court may at any time rescind or vary an injunction granted or order made under subsection (1) of this section.

- (4) Where an application is made to the District Court under subsection (1) of this section for the grant of an injunction restraining a person from engaging in conduct of a particular kind the District Court may—
- (a) If it is satisfied that the person has engaged in conduct of that kind, grant an injunction restraining the person from engaging in conduct of that kind; or
  - (b) If in the opinion of the District Court it is desirable to do so, grant an interim injunction restraining the person from engaging in conduct of that kind—
- whether or not it appears to the District Court that the person intends to engage again, or to continue to engage, in conduct of that kind.
- (5) Any order may be granted under subsection (1) of this section—
- (a) Notwithstanding that proceedings for the offence constituted by the breach have not been taken; or
  - (b) Where the person is convicted of such an offence, either—
    - (i) In the proceedings for the offence, in substitution for or in addition to any penalty imposed for the offence; or
    - (ii) In subsequent proceedings.
- [(6) Despite section 17(1)(a) of the Crown Proceedings Act 1950,—
- (a) the District Court may grant an injunction against a Crown organisation, but only in its own name; and
  - (b) for the purposes of imposing or enforcing an injunction referred to in paragraph (a), the Crown organisation, if not a body corporate, has a separate legal personality.]

## **82 Liability of principal for acts of agents**

- (1) Where an offence is committed against this Act by any person acting as the agent or employee of another person, that other person shall, without prejudice to the liability of the first-mentioned person, be liable under this Act in the same manner and to the same extent as if he, she, or it had personally committed the offence.
- (2) Notwithstanding anything in subsection (1) of this section, where any proceedings are brought by virtue of that subsection, it shall be a good defence if the defendant proves—
- (a) In the case of a natural person (including a partner in a firm) that—
    - (i) He or she did not know nor could reasonably be expected to have known that the offence was to be or was being committed; or
    - (ii) He or she took all reasonable steps to prevent the commission of the offence;
  - (b) In the case of a body corporate that—
    - (i) Neither the directors nor any person involved in the management of the body corporate knew or could reasonably be expected to have known that the offence was to be or was being committed; or
    - (ii) The body corporate took all reasonable steps to prevent the commission of the offence; and
  - (c) In all cases, that the defendant took all reasonable steps to remedy any effects of the act or omission giving rise to the offence.
- (3) Where any body corporate is convicted of an offence against this Act, every director and every person concerned in the management of the body corporate shall be guilty of the like offence if it is proved—
- (a) That the act that constituted the offence took place with his or her authority, permission, or consent; and
  - (b) That he or she knew or could reasonably be expected to have known that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.
- [(4) Subsections (1) and (2) do not apply if an offence is committed by a person acting as the agent or employee of a Crown organisation.]
- [(5) If any Crown organisation is convicted of an offence against this Act, the chief executive or principal officer (however described) of that organisation, and any person concerned in the management of that organisation, is guilty of the like offence if it is proved—
- (a) that the act that constituted the offence took place with his or her authority, permission, or consent; and
  - (b) that he or she knew, or could reasonably be expected to have known, that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.]

## **[82A Liability for acts of employees or agents of Crown organisations**

- (1) If an offence referred to in section 6(1)(a) of the Crown Organisations (Criminal Liability) Act 2002 is committed by a person acting as the agent or employee of a Crown organisation, that Crown organisation must (without affecting the personal liability of the agent or employee) be treated for all legal purposes as having committed that offence.
- (2) Despite subsection (1), if proceedings for an offence referred to in section 6(1)(a) of the Crown Organisations (Criminal Liability) Act 2002 are brought against a Crown organisation in reliance on subsection (1), it is a good defence if the Crown organisation proves that—
- (a) the organisation took all reasonable steps to remedy any effects of the act or omission constituting the offence; and
  - (b) either—
    - (i) No person involved in the management of the organisation knew or could reasonably be expected to have known that the offence was to be or was being committed; or
    - (ii) the organisation took all reasonable steps to prevent the commission of the offence.]

## **83 Strict liability and defences**

- (1) In any prosecution for an offence of contravening or permitting a contravention of any of the provisions of this Act or of the building code, it is not necessary to prove that the defendant intended to commit the offence.
- (2) Subject to subsection (3) of this section, it is a defence to a prosecution of the kind referred to in subsection (1) of this section if the defendant proves—
- (a) That—
    - (i) The action or event to which the prosecution relates was necessary for the purposes of saving or protecting life or health or preventing serious damage to property; and



- (ii) The conduct of the defendant was reasonable in the circumstances; and
- (iii) The effects of the action or event were adequately mitigated or remedied by the defendant after it occurred; or
- (b) That the action or event to which the prosecution relates was due to an event beyond the control of the defendant, including natural disaster, mechanical failure, or sabotage, and in each case ...—
  - (i) The action or event could not reasonably have been foreseen or been provided against by the defendant; and
  - (ii) The effects of the action or event were adequately mitigated or remedied by the defendant after it occurred.
- (3) Except with the leave of the Court, subsection (2) of this section does not apply unless, within 7 days after the service of the summons or within such further time as the Court may allow, the defendant delivers to the prosecutor a written notice—
  - (a) Stating that he or she intends to rely on subsection (2) of this section; and
  - (b) Specifying the facts that support his or her reliance on subsection (2) of this section.

#### **84 Fines to be paid to territorial authority instituting prosecution**

- (1) Subject to subsection (2) of this section, where a person is convicted of an offence under section 80(1) of this Act and the Court imposes a fine, the Court shall, if the information for that offence was laid by a territorial authority, order that the fine be paid to that territorial authority.
- (2) There shall be deducted from every amount payable to a territorial authority under subsection (1) of this section a sum equal to 10 percent thereof, and that sum shall be credited to a Crown Bank Account nominated by the Minister of Finance for the purposes of this subsection.
- (3) Notwithstanding anything in subsection (2) of this section, where any money awarded by a Court in respect of any loss or damage is recovered as a fine, and that fine is ordered to be paid to a territorial authority under subsection (1) of this section, no deduction shall be made under subsection (2) of this section in respect of that money.
- (4) Subject to subsection (2) of this section, an order of the Court made under subsection (1) of this section shall be sufficient authority for the Registrar receiving the fine to pay that fine to the territorial authority entitled to it under the order.
- (5) Nothing in section 73 of the Public Finance Act 1989 shall apply to any fine ordered to be paid to any territorial authority under subsection (1) of this section.

#### **85 Prosecution of offences**

Unless otherwise expressly provided, all offences against this Act may be prosecuted, and all fines or sums of money imposed or declared to be due or owing by or under this Act may be sued for and recovered, before any Court having jurisdiction for punishment of offences of the like nature or for the recovery of fines or sums of money of the like amount.

#### **86 Appeals on questions of law**

- (1) This section applies to the following decisions of the Authority:
  - (a) To issue a determination under Part 3 of this Act; and
  - (b) To decline an application for approval or to make an order under Part 7 of this Act; and
  - (c) To decline an application for an accreditation under Part 8 of this Act.
- (2) Any decision to which this section applies may be appealed to the High Court on a point of law by—
  - (a) The applicant; or
  - (b) The person in respect of whom the order was made; or
  - (c) Any party as defined in section 16 of this Act.
- (3) An appeal under this section shall be made in accordance with the High Court Rules except to any extent that those rules are inconsistent with this section.
- (4) An appellant shall file a notice of appeal within 15 working days after the date on which the appellant is notified of the Authority's decision.
- (5) The appeal shall be filed with the Registrar of the High Court.
- (6) Before or immediately after the appeal is filed, the appellant shall serve a copy of the notice on the Authority and, in the case of an appeal against a determination under Part 3 of this Act, on any party in respect of that determination as defined in section 16 of this Act.
- (7) A person served with notice under subsection (6) of this section who wishes to appear on the appeal shall give notice of his or her intention to appear to—
  - (a) The appellant; and
  - (b) The Registrar of the High Court; and
  - (c) Any other person to whom the appellant is required to service notice under subsection (6) of this section.
- (8) The notice to appear under subsection (7) of this section shall be served within 10 days after the party was served with the notice of appeal.

#### **87 Service of documents**

- (1) Where a notice or other document is to be served on a person for the purposes of this Act, it may be served—
  - (a) By delivering it personally to the person; or
  - (b) By delivering it at the usual or last known place of residence or business of the person, including by facsimile; or
  - (c) By sending it by pre-paid post addressed to the person at the usual or last known place of residence or business of the person.
- (2) Where a notice or other document is to be served on a body (whether incorporated or not) for the purposes of this Act, service on any officer of the body in accordance with subsection (1) of this section shall be deemed to be service on the body.
- (3) Where a notice or other document is to be served on a partnership for the purposes of this Act, service on any one of the partners in accordance with subsections (1) and (2) of this section shall be deemed to be service on the partnership.
- [3A) Despite subsection (1), if a notice or other document is to be served on a Crown organisation for the purposes of this Act, it may be served—
  - (a) by delivering it personally to an employee of the organisation at its head office or principal place of business; or

- (b) by delivering it at the organisation's head office or principal place of business, including by facsimile; or
  - (c) in accordance with a method agreed between the informant and the organisation.]
- (4) Where a notice or other document is sent by post to a person in accordance with subsection (1)(c) of this section it shall be deemed to be received by the person at the time at which the letter would have been delivered in the ordinary course of post.

#### **88 Notices and consents in relation to Maori land**

Where—

- (a) A notice or other document is to be served on the owner of land for the purpose of this Act; and
  - (b) The approval or consent of an owner of land is sought or required for the purpose of this Act—
- the notice, other document, or consent shall be deemed to have been served or obtained, as the case may be, on or from all the owners of Maori land if it has been served on or obtained from such owner or owners as have been nominated for the purpose by the Registrar of the Maori Land Court at the request of the person seeking to serve the notice or other document, or obtain the approval or consent.

#### *Civil proceedings and defences*

#### **89 Civil proceedings against members, employees, etc**

No civil proceedings shall be brought for an act done in good faith under this Act against a member, building referee, or employee of the Authority, or a member or employee of a territorial authority, or a member of a committee appointed by the Authority or a territorial authority.

#### **90 Civil proceedings against building certifiers**

Civil proceedings against a building certifier in respect of the exercise by the building certifier of the building certifier's statutory function in issuing a building certificate or a code compliance certificate are to be brought in tort and not in contract.

#### **91 Limitation defences**

- (1) Except to the extent provided in subsection (2) of this section, the provisions of the Limitation Act 1950 apply to civil proceedings against any person where those proceedings arise from—
    - (a) [Any building work associated with the design,] construction, alteration, demolition, or removal of any building; or
    - (b) The exercise of any function under this Act or any previous enactment relating to the construction, alteration, demolition, or removal of that building.
  - (2) Civil proceedings [relating to any building work] may not be brought against any person 10 years or more after the date of the act or omission on which the proceedings are based.
  - (3) For the purposes of subsection (2) of this section if—
    - (a) Civil proceedings are brought against a territorial authority, a building certifier, or the Authority; and
    - (b) The proceedings arise out of the issue of a building consent, a building certificate, a code compliance certificate, or an Authority determination—

the date of the act or omission is the date of issue of the consent or certificate or determination.
  - (4) For the purposes of subsection (2) of this section, if civil proceedings are brought against the Authority and the proceedings arise out of the issue of an accreditation certificate, the date of the act or omission is the date at which the accreditation certificate was relied on.
- [(4A) For the purposes of subsection (2) of this section, if—
- (a) Civil proceedings are brought against any person; and
  - (b) The proceedings arise out of the issue of an energy work certificate,—
- the date of the act or omission is the date of the issue of the certificate.]
- (5) Notwithstanding section 93(1)(a) of this Act, subsection (2) of this section applies to any proceedings commenced after this Part of this Act comes into operation, except proceedings commenced before the 1st day of July 1993.

#### *Amendments to other Acts, repeals, transitional provisions, and savings*

#### **92 Amendments to other Acts and consequential repeals**

- (1) The enactments specified in Schedule 4 to this Act are hereby amended in the manner specified in that Schedule.
- (2) The enactments specified in Schedule 5 to this Act are hereby repealed.
- (3) The regulations and orders specified in Schedule 6 to this Act are hereby revoked.

#### **93 Transitional provisions and savings**

- (1) The following matters shall continue as if this Act had not been passed:
  - (a) Any proceedings in or out of any Court in respect of any act or omission before Parts 3 to 6 and 9 of this Act came into operation:
  - (b) Any application properly made before Parts 3 to 6 and 9 of this Act came into operation:
  - (c) Any authorisation lawfully given before Parts 3 to 6 and 9 of this Act came into operation:
  - (d) The lawful construction, alteration, demolition, or removal of any building commenced under an authorisation properly applied for before Parts 3 to 6 and 9 of this Act came into operation.
- (2) During the period of 6 calendar months after Parts 5 to 6 and 9 of this Act came into force, any person who wishes to commence the construction, alteration, demolition, or removal of a building may, at that person's option, choose to apply—
  - (a) For a building consent under this Act; or
  - (b) For the authorisation that would have been required if this Act had not been passed, in which case the application shall be deemed, for the purposes of subsection (1) of this section, to have been made before Parts 5 to 6 and 9 of this Act came into operation.
- (3) If a building is being constructed, altered, demolished, or removed pursuant to an authorisation to which subsection (1)(d) or subsection (2)(b) of this section applies, and reasonable progress of construction, alteration, demolition, or removal to the satisfaction of the territorial authority concerned has not been made for 4 calendar months, then those subsections shall cease to apply and a building consent under this Act shall be required in respect of any further construction, alteration, demolition, or removal.

**[93A Transitional provisions relating to energy work**

- (1) In this section, unless the context otherwise requires, the term **interim period** means the period beginning on the date of the commencement of this section and ending with the close of the 31st day of March 1993.
- (2) Subject to subsections (3) and (4) of this section, during the interim period energy work does not require a building consent.
- (3) Subsection (2) of this section does not apply in respect of any energy work that relates to any system or feature—
- (a) That is contained in, or proposed to be contained in, any building (whether existing or proposed); and
  - (b) That—
    - (i) In the case of any such existing system or existing feature, is covered by a compliance schedule, or would be so covered if a compliance schedule were issued in respect of the building;
    - (ii) In the case of any proposed system or proposed feature, will be required to be covered by a compliance schedule.
- (4) Where, during the interim period, any owner wishes to obtain a building consent in respect of any energy work that does not require a building consent, the owner may apply for a building consent in respect of that work (whether or not the application also relates to any other building work), and in any such case this Act shall apply in all respects as if the energy work to which the application relates required a building consent.
- (5) Subject to subsection (6) of this section, where, during the interim period, any energy work that does not require a building consent is commenced under an authorisation granted before the expiry of the interim period, that work may continue as if this Act had not been passed.
- (6) If—
- (a) After the expiry of the interim period, any energy work to which subsection (5) of this section applies is being carried out; and
  - (b) Reasonable progress to the satisfaction of the territorial authority concerned has not been made on that work for 4 calendar months,—
- then subsection (5) of this section shall cease to apply with respect to that energy work.
- (7) Every building consent that is issued during the interim period and that relates to energy work shall have endorsed on it a statement to the effect that the carrying out of the energy work to which the building consent relates is subject to compliance with the requirements of the Electricity Act 1968 or, as the case requires, the Gas Act 1982.]

## Schedules

### Schedule 1

#### Provisions relating to Building Industry Authority

(cl 1 to cl 16)

Section 10(5)

**1 Appointment of members and terms of office of members**

- (1) Each member of the Authority shall be appointed for such term not exceeding 3 years as the Minister shall specify in the instrument appointing the member.
- (2) Each member of the Authority may be re-appointed from time to time.
- (3) Where the term of office of a member of the Authority expires, that member, unless sooner vacating or removed from office under clause 2 of this Schedule, shall continue to hold office until—
- (a) That member is re-appointed; or
  - (b) A successor to that member is appointed; or
  - (c) That member is informed in writing by the Minister that he or she is not to be re-appointed.

**2 Vacation of office**

- (1) Any member of the Authority may at any time be removed from office by the Minister for inability to perform the duties of office, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Minister.
- (2) Any member of the Authority may at any time resign from office by writing addressed to the Minister.
- (3) If any member of the Authority is removed from office, resigns, or dies, the office of the member shall become vacant.
- (4) The powers of the Authority shall not be affected by any vacancy in its membership.

**3 Disclosure of interests**

- (1) Any member of the Authority or of any committee of the Authority or any building referee who, otherwise than as such member or referee, is directly or indirectly interested in the exercise of any power or function by the Authority, or who is directly or indirectly interested in any arrangement, agreement, or contract made or entered into, or proposed to be made or entered into, by the Authority shall, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of his or her interest at a meeting of the Authority.
- (2) A disclosure under this section shall be recorded in the minutes of the Authority and, except as otherwise provided by resolution of the Authority, the member or referee—
- (a) Shall not take part after the disclosure in any deliberation or decision of the Authority relating to the exercise of the power or function by the Authority or referees or to the arrangement, agreement, or contract; and
  - (b) Shall be disregarded for the purpose of forming a quorum of the Authority or referees for any deliberation or decision.

**4 Presiding member**

- (1) The Minister shall appoint one of the members of the Authority to be the presiding member of the Authority.
- (2) The Authority shall elect one of its members to be deputy presiding member for such period, not exceeding 2 years, as the Authority decides.

- (3) The deputy presiding member shall hold office as such until the deputy presiding member's successor is elected or the deputy presiding member sooner ceases to be a member of the Authority.
- (4) If a vacancy occurs in the office of deputy presiding member before the expiration of the period for which he or she has been elected, the Authority shall, at its first meeting after the vacancy occurs, elect some other member of the Authority to be deputy presiding member.
- (5) Subject to this Act, the deputy presiding member shall have and may exercise all the powers and duties of the presiding member during the presiding member's absence or incapacity or while there is a vacancy in the office of presiding member.
- (6) No acts done by a person holding office as deputy presiding member of the Authority in that person's capacity as such deputy, and no acts done by the Authority while a deputy presiding member is acting as such deputy, shall in any proceedings be questioned on the ground that the occasion for the deputy presiding member so acting had not arisen or had ceased.

#### **5 Meetings**

- (1) Meetings of the Authority shall be held at such times and places as the Authority or the presiding member appoints.
- (2) At any meeting of the Authority, the quorum shall be half the members if the total membership is even, and a majority of members if the total membership is odd.
- (3) The presiding member shall preside at all meetings of the Authority at which the presiding member is present and, in the absence of the presiding member, the deputy presiding member shall preside.
- (4) In the absence of the presiding member and the deputy presiding member from a meeting, the members present shall appoint one of their number to be presiding member for the purposes of that meeting.
- (5) No acts done by a presiding member appointed under subclause (4) of this clause shall in any proceedings be questioned on the ground that the occasion for so acting had not arisen or had ceased.
- (6) All questions arising at a meeting of the Authority shall be decided by a majority of the votes of the members present and voting and the presiding member shall, in the event of an equality of votes, have a casting vote.
- (7) A resolution in writing signed, or assented to by letter, telegram, cable, or facsimile message, by all the members of the Authority shall be as valid and effectual as if it had been passed at a meeting of the Authority duly called and constituted.
- (8) The Authority may co-opt a person or persons for any particular meeting (but not permanently) to assist the Authority to resolve a matter under consideration at that meeting, but such a person shall not be entitled to vote.
- (9) Subject to this Act, the Authority may regulate its own proceedings and the proceedings of any committee appointed by the Authority.

#### **6 Funds and resources**

- (1) The funds and resources of the Authority shall consist of—
  - (a) Any money appropriated by Parliament and paid to the Authority for the purposes of the Authority; and
  - (b) All money and property provided to the Authority by way of grants, subsidies, donations, gifts, charges, and subscriptions; and
  - (c) All money derived from the sale, lease, or hire of property held by or on behalf of the Authority; and
  - (d) All other money and property lawfully received by the Authority for the purposes of the Authority; and
  - (e) All accumulations of income derived from any such property or money.
- (2) The Authority may expend its funds as provided in this Act or for any purpose reasonably necessary for or incidental to the performance of its functions.
- (3) The Authority may, in any financial year, expend out of its funds for purposes not authorised by this or any other Act a sum or sums totalling not more than 0.1 percent of its total expenditure in that year.

#### **7 Bank accounts**

- (1) For the purposes of this Act, the Authority shall maintain, at any bank or banks, bank accounts into which shall be paid all money received by the Authority.
- (2) The Authority may from time to time open at the bank or banks at which its accounts are kept, or at any branch or agency of the bank or banks, such subsidiary accounts as the Authority thinks necessary for the performance and exercise of its functions and powers.
- (3) Every account under this section shall be operated upon only by cheque or other instrument (not being a bill or promissory note) signed by such person or persons as may from time to time be authorised by the Authority for that purpose.

#### **8 Investment of money**

Any money that belongs to the Authority and that is not immediately required for expenditure by the Authority may be invested pursuant to section 25 of the Public Finance Act 1989.

#### **9 Remuneration, allowances, and expenses of members of the Authority**

- (1) The Authority is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.
- (2) There shall be paid to the members of the Authority remuneration by way of fees, salary, or allowances, and travelling allowances and travelling expenses, in accordance with the Fees and Travelling Allowances Act 1951; and the provisions of that Act shall apply accordingly.

#### **10 Payments to committee members, consultants, and [agents, and building referees]**

The Authority may pay to members of committees, consultants, [agents, and building referees] appointed or engaged by the Authority, and persons co-opted under clause 5(8) of this Schedule, for services rendered by them, fees and commission, or either, at such rates as the Authority thinks fit, and may separately reimburse them for expenses reasonably incurred in rendering services for the Authority.

#### **11 Seal**

The Authority shall have a seal which shall be judicially noted in all Courts and for all purposes.

#### **[12] Employees of Authority**

- (1) The Authority may from time to time appoint a chief executive, and a temporary chief executive during the temporary absence of the chief executive, on such terms and conditions of employment as the Authority determines.

- (2) The chief executive may appoint such employees (including employees on secondment from other organisations) as the chief executive considers necessary for the efficient performance of the Authority's functions, and may negotiate the terms and conditions of employment of such employees.]

### 13 Superannuation and retiring allowances

- (1) For the purpose of providing superannuation or retiring allowances for its employees, the Authority may from time to time pay sums of money by way of subsidy into any superannuation scheme.
- (2) Notwithstanding anything in this Act, any person who, immediately before becoming an officer or employee of the Authority, is a contributor to the Government Superannuation Fund under Part 2 or Part 2A of the Government Superannuation Fund Act 1956 shall be deemed for the purposes of that Act to be employed in the Government service so long as the person continues to be an officer or employee of the Authority, and that Act shall apply to the person in all respects as if service as such an officer or employee were Government service.
- (3) For the purposes of the Government Superannuation Fund Act 1956, nothing in subclause (2) of this clause shall entitle any person to whom that subclause applies to become a contributor to the Government Superannuation Fund after ceasing to be a contributor to that fund.
- (4) For the purposes of the Government Superannuation Fund Act 1956, the Authority shall be the controlling authority in relation to any officer or employee to whom that Act applies by virtue of subclause (2) of this clause.
- (5) *Repealed.*

### 14 Minister may require Authority to supply reports

The Minister may from time to time require the Authority to supply the Minister with a report on its operations and on the operation of the building code.

### 15 Annual report

- (1) The Authority shall in each year supply the Minister with a report on its operations and on the operation of the building code.
- (2) The Authority shall include in every annual report of the Authority the financial statements prepared by the Authority, in accordance with Part 5 of the Public Finance Act 1989, in respect of the financial year to which the report relates, together with the audit report and the management statement relating to those financial statements.
- [(3) The Minister shall lay before the House of Representatives in accordance with section 44A of the Public Finance Act 1989 a copy of every annual report supplied to the Minister under subclause (1) of this clause.]

### 16 Exemption from income tax

The income of the Authority shall be exempt from income tax.

## Schedule 2 Criteria for fit and proper person

(cl 1 to cl 7)

Section 52(6)(b)

- 1 For the purpose of determining whether or not a person is a fit and proper person under section 52(6)(b) of this Act, the Authority shall, having regard to the degree and nature of the person's proposed involvement in the building industry, have regard to, and give such weight as the Authority considers appropriate to, the following matters:
- (a) The person's related experience (if any) within the building industry; and
  - (b) The person's knowledge of the applicable building regulatory requirements; and
  - (c) Any conviction for any offence in terms of the Health Act 1956, the [Local Government Act 2002], the Fire Service Act 1975, or this Act, or the equivalent provisions in overseas legislation, whether or not—
    - (i) The conviction was in a New Zealand Court; or
    - (ii) The offence was committed before the commencement of this Act.
- 2 The Authority shall not be confined to consideration of the matters specified in clause 1 of this Schedule and may take into account such other matters and evidence as may be relevant.
- 3 The Authority may, for the purpose of determining whether or not a person is a fit and proper person under section 52(6)(b) of this Act,—
- (a) Seek and receive such information as the Authority thinks fit; and
  - (b) Consider information obtained from any source.
- 4 Where the Authority is considering whether a corporation is a fit and proper person under section 52(6)(b) of this Act, paragraphs (a) to (c) of clause 1 of this Schedule shall be read as if every reference in those paragraphs to a person is a reference to the corporation and its directors and chief executive.
- 5 If the Authority proposes to take into account any information that is or may be prejudicial to a person, the Authority shall, subject to clause 6 of this Schedule, disclose that information to that person and give that person a reasonable opportunity to refute or comment on it.
- 6 Nothing in clause 5 of this Schedule shall require the Authority to disclose any information if the disclosure would be likely to endanger the safety of any person.
- [7 If the Authority determines not to disclose any information in reliance on clause 6,—
- (a) the Authority must inform the person of the fact of non disclosure and that the person may seek a review of that non-disclosure by,—
    - (i) in the case of an individual, the Privacy Commissioner under the Privacy Act 1993; or
    - (ii) in any other case, an Ombudsman under the Official Information Act 1982; and
  - (b) a request for the information that has been withheld must be dealt with in accordance with,—

- (i) in the case of a request by an individual, the provisions of the Privacy Act 1993 as if the information had been withheld in reliance on section 27(1)(d) of that Act; or
- (ii) in any other case, the provisions of the Official Information Act 1982 as if the information had been withheld in reliance on section 6(d) of that Act.]

### Schedule 3

## Exempt buildings and building work

Section 32(2)(b)

A building consent shall not be required in respect of the following building work:

- [(a) Maintenance in accordance with procedures specified in the compliance schedule (if any) for the building concerned:]
- [(aa) The following work carried out in accordance with the Plumbers, Gasfitters, and Drainlayers Act 1976:
  - (i) The repair, or the replacement with a comparable item, of any tap, ball valve, or tap washer, but excluding any such item that is part of a hot-water system (other than an open-vented system) or that is part of a back-flow preventer or cross-connection device:
  - (ii) The repair, or the replacement with a comparable heater, of any open-vented water storage heater using the same pipework but excluding any water storage heater connected to a solid-fuel heater or other supplementary heat exchanger, but only when the work (notwithstanding any notice issued under section 55(1) of the Plumbers, Gasfitters, and Drainlayers Act 1976) is done by a craftsman plumber, or by a registered plumber working under the direction of a craftsman plumber, or by the holder of a limited certificate working under the supervision of a craftsman plumber or registered plumber, or by any other person so authorised under section 53 of that Act:
  - (iii) The repair, or replacement with a comparable fixture or appliance, of any sanitary fixture or sanitary appliance using the same pipework, but only when that work (notwithstanding any notice issued under section 55(1) of the Plumbers, Gasfitters, and Drainlayers Act 1976) is done by a craftsman plumber, or by a registered plumber working under the direction of a craftsman plumber, or by the holder of a limited certificate working under the supervision of a craftsman plumber or registered plumber:
  - (iv) The opening and reinstatement of any purpose-made access point within a drainage system that is deemed to be part of a building in accordance with section 3(3) of this Act:]
- [(ab) Any other lawful repair with comparable materials, or replacement with a comparable component or assembly in the same position, of any component or assembly incorporated or associated with a building, but excluding—
  - (i) The complete or substantial replacement of any system listed in section 44(1) or section 44(5) of this Act:
  - (ii) The complete or substantial replacement of any component or assembly contributing to the structural behaviour or fire-safety properties of the building:
  - (iii) The repair or replacement of any component or assembly that has failed to satisfy the provisions of the building code for durability:]
- (b) Any power pole, telephone pole, pylon, motorway sign, or similar simple structure owned or controlled by any network utility operator or other organisation:
- (c) Any dam that retains not more than 3 metres depth, and not more than 20,000 cubic metres volume, of water, and any stopbank or culvert:
- (d) Any mast, pole, or telecommunication aerial on and forming part of a building, excluding dish aerials, that does not exceed 7 metres in height above the point of its attachment or base support:
- (e) Any retaining wall that retains not more than 1.5 metres depth of ground and that does not support any surcharge or any load additional to the load of that ground, such as the load of vehicles on a road:
- (f) Any wall (other than a retaining wall), fence (other than a fence as defined in section 2 of the Fencing of Swimming Pools Act 1987), or hoarding of a height not exceeding 2 metres above the supporting ground:
- (g) Any tank or pool and any structural support thereof (excluding a swimming pool as defined in section 2 of the Fencing of Swimming Pools Act 1987), including any tank or pool that is part of any other building for which a building consent is required,—
  - (i) Not exceeding 25,000 litres capacity and supported directly by the ground; or
  - (ii) Not exceeding 2,000 litres capacity and supported not more than 2 metres above the supporting ground; or
  - (iii) Not exceeding 500 litres capacity and supported not more than 4 metres above the supporting ground:
- (h) Any tent or marquee not exceeding 30 square metres in floor area and remaining in use for not more than 1 month:
- (i) Any platform, bridge, or the like from which it is not possible for a person to fall more than 1 metre even if it collapses:
- (j) Any offshore installation to be used for petroleum mining as defined in section 2(1) of the Petroleum Act 1937:
- (k) Any temporary storage stack of goods or materials:
- (l) [Building work in connection with any detached building] (other than a building which is required to be licensed in terms of the Dangerous Goods Act 1974 or a building closer than its own height to any residential accommodation or to any legal boundary) which—
  - (i) Houses fixed plant or machinery, the only normal visits to which are intermittent visits for routine inspection and maintenance of that plant or machinery; or
  - (ii) Into, or into the immediate vicinity of which, people cannot or do not normally go; or
  - (iii) Is used only by people engaged in the construction or maintenance of another building in respect of which a building consent is required; or
  - (iv) [Does not exceed 1 storey and does not exceed 10 square metres] in floor area, and does not contain sleeping accommodation or sanitary facilities or facilities for the storage of potable water:
- [(la) Building work in connection with the closing in of an existing veranda, patio, or the like so as to provide an enclosed porch, conservatory, or the like with a floor area not exceeding 5 square metres:]
- [(m) Any other building work in respect of which the territorial authority considers that a building consent is not necessary for the purposes of the Act because that building work either—

- (i) Is unlikely to be carried out otherwise than in accordance with the building code; or
- (ii) If carried out otherwise than in accordance with the building code, is unlikely to endanger people or any building, whether on the same land or on other property.]

## Schedule 4

### Amendments to other Acts

Section 92(1)

Act Amended	Amendment
1937, No 27-The Petroleum Act 1937 (RS Vol 7, p 647)	By inserting, after section 46, the following section: <b>“46A</b> <b>Building Act 1991</b> “(1) Where an Inspector believes that any building or sitework does not comply with the Building Act 1991, the Inspector shall by notice in writing give to the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply. “(2) For the purposes of this section, the terms ‘building’, ‘sitework’, and ‘territorial authority’ have the meanings ascribed to them by the Building Act 1991.”
1950, No 53-The Boilers, Lifts, and Cranes Act 1950 (RS Vol 1, p 377)	By inserting, after section 9, the following section: <b>“9A</b> <b>Building Act 1991</b> “(1) Where an Inspector believes that any building or sitework does not comply with the Building Act 1991, the Inspector shall be notice in writing give to the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply. “(2) For the purposes of this section, the terms ‘building’, ‘sitework’, and ‘territorial authority’ have the meanings ascribed to them by the Building Act 1991.”
1952, No 55-The Dairy Industry Act 1952 (Reprinted 1976, Vol 4, p 3393)	By inserting, after section 9, the following section: <b>“9A</b> <b>Building Act 1991</b> “(1) Where an Inspector believes that any building or sitework does not comply with the Building Act 1991, the Inspector shall be notice in writing give to the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply. “(2) For the purposes of this section, the terms ‘building’, ‘sitework’, and ‘territorial authority’ have the meanings ascribed to them by the Building Act 1991.”
1956, No 65-The Health Act 1956 (RS Vol 19, p 493)	By omitting from section 29(d) the words “are of such construction, or”. By repealing section 29(e). By omitting from section 39(1) the words “regulations or bylaws in force on the district, or, in the absence of such regulations or bylaws, to the satisfaction of the Medical Officer of Health,”, and substituting the words “the building code and the Building Act 1991”. By repealing sections 40 and 42(1)(a). By omitting from section 42(1)(b) the words “structure or state of disrepair or”. By repealing sections 42(1)(c) and (d), 48, 49, 50, 51, and 52. By omitting from section 46(2) the expression “to (e)”, and substituting the expression “,(b), and (e)”. By omitting from section 53A(1) the words “sections 41, 42, 44, 46, 48, and 50,” and substituting the words “sections 41, 42, 44, and 46”. By omitting from section 53B the expression “46, 48, and 50”, and substituting the expression “and 46”. By omitting from section 53B(a) the words “repairs, alterations, or”. By repealing section 64(1)(e) and (f). By omitting from section 64(1)(g) the words “,septic tanks, sanitary conveniences, and sanitary appliances”. By omitting from section 64(1)(h) the words “and repairing”. By omitting from section 64(1)(i) the words “and construction”. By omitting from section 64(1)(j) the word “,construction,”. By omitting from section 64(1)(p) the words “and structure”.

Act Amended	Amendment
	<p>By inserting, after section 65, the following section:</p> <p><b>“65A</b></p> <p style="text-align: center;"><b>Effect of Building Act 1991 on bylaws</b></p> <p>“(1) A local authority may not make any bylaw under this Act that purports to have the effect of requiring any building to achieve performance criteria additional to or more restrictive than those specified in the Building Act 1991 or the building code.</p> <p>“(2) For the purposes of this section, the terms ‘building’, ‘building code’, and ‘performance criteria’ have the meanings ascribed to them by the Building Act 1991.”</p> <p>By omitting from section 117(1)(c) the words “buildings and”.</p> <p>By repealing section 120A, and substituting the following section:</p> <p><b>“120A</b></p> <p style="text-align: center;"><b>Regulations as to homes and day-care centres for aged persons</b></p> <p>“(1) Regulations made under this Act may provide for the registration, licensing, and control of homes and day-care centres for aged persons within the meaning of subsections (4) and (5) of this section.</p> <p>“(2) Any such regulations may-</p> <p>“(a) Prescribe, either by reference to other enactments or otherwise, minimum standards of staffing to be provided in all such homes and day-care centres or in any class or classes of such homes or day-care centres:</p> <p>“(b) Require compliance by the proprietors of all such homes and day-care centres with specified codes of practice or specified standards relating to management of premises and care of persons:</p> <p>“(c) Provide for the inspection of all such homes and day-care centres and of premises reasonably believed to be such homes or day-care centres:</p> <p>“(d) Prescribe licence fees to be payable by the proprietors of all such homes and day-care centres or any class or classes of such homes or day-care centres:</p> <p>“(e) Prescribe conditions to govern, or that may be imposed in respect of, the grant and transfer of licences for such homes and day-care centres and the duties of licensees thereof:</p> <p>“(f) Provide for the cancellation of such licences:</p> <p>“(g) Exempt or provide for the exemption of any such home or day-care centre or any class or classes of such homes or day-care centres from all or any of the provisions of the provisions of the regulations:</p> <p>“(h) Provide for the granting of temporary licences in respect of homes and day-care centres which do not comply with the minimum standards prescribed:</p> <p>“(i) Prescribe the conditions subject to which persons may be accommodated in homes, whether those persons have attained the age of 65 years or not:</p> <p>“(j) Prescribe minimum standards of care to be provided for residents in homes and for aged persons in day-care centres:</p> <p>“(k) Prescribe activity programmes to be conducted for residents in homes and for aged persons in day-care centres:</p> <p>“(l) Prescribe the qualifications required for managers of homes:</p> <p>“(m) Prescribe training courses required to be undergone by persons employed in homes and day-care centres.</p> <p>“(3) Every person commits an offence against this Act who holds out, or uses any words which are likely to lead persons to believe, that any home is a licensed private hospital or that premises which are not registered or licensed under</p>



Act Amended	Amendment
	<p>regulations made pursuant to this section are in fact so registered or licensed.</p> <p>“(4) In this section the term <b>home</b> means any premises where 3 or more persons who have attained the age of 65 years and not related by blood or marriage to the house-holder are, or are to be, in residence and paying for their lodging and for one or more meals a day, being any premises that are, or purport to be, conducted principally for aged-frail person, and not being a licensed private hospital, an institution under the control of the Department of Health or of an area health board, or a hospital within the meaning of the Mental Health Act 1969.</p> <p>“(5) In this section the term <b>day-care centre</b> means any premises which are or purport to be used regularly, although not necessarily continuously, for the accommodation (for the purposes of care, occupation, recreation, or entertainment), during the day, of 5 or more persons who have attained the age of 65 years, who are not related by blood or marriage to the occupier of the premises, and by whom or on whose behalf payment is made in respect of such accommodation or in respect of one or more meals provided in the course of such accommodation, whether or not the premises are used at the same time for the accommodation of other persons or for other purposes; but does not include-</p> <p>“(a) A home; or</p> <p>“(b) Any premises expressly excepted from the definition of ‘home’ in subsection (4) of this section; or</p> <p>“(c) Any premises in which such accommodation may be provided by virtue of powers conferred by, or by virtue of a licence issued by a local authority under, any other enactment.”</p> <p>By omitting from section 120C(1) the word “For”, and substituting the words “Subject to the Building Act 1991, for”.</p> <p>By inserting, after section 128, the following section:</p> <p><b>“128A</b></p> <p style="text-align: center;"><b>Building Act 1991</b></p> <p>“(1) Where any person making an inspection in accordance with section 128 of this Act believes that any building or sitework does not comply with the Building Act 1991, that person shall by notice in writing give to the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply.</p> <p>“(2) For the purposes of this section, the terms ‘building’, ‘sitework’, and ‘territorial authority’ have the meanings ascribed to them by the Building Act 1991.”</p>
<p>1957, No 40-The Hospitals Act 1957 (RS Vol 19, p 665)</p> <p>1959, No 32-The Construction Act 1959 (RS Vol 23, p 227)</p>	<p>By inserting after the section 18C, the following section:</p> <p><b>“18D</b></p> <p style="text-align: center;"><b>Building Act 1991</b></p> <p>“(1) Where an Inspector believes that any building or sitework does not comply with the Building Act 1991, the Inspector shall by notice in writing give to the appropriate notice in writing give to the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply.</p> <p>“(2) For the purposes of this section, the terms ‘building’, ‘sitework’, and ‘territorial authority’ have the meanings ascribed to them by the Building Act 1991.”</p>
<p>1962, No 136-The Shearers Act 1962 (RS Vol 9, p 575)</p>	<p>By adding to section 9(1) the words “and the Building Act 1991”.</p> <p>By repealing section 10, 11, 12(7) to (9), and 15(1)(b).</p>

Act Amended	Amendment
1964, No 75-The Burial and Cremation Act 1964 (RS Vol 16, p 1)	<p>By inserting, after section 12, the following section:</p> <p><b>“12A Building Act 1991</b></p> <p>“(1) Where an Inspector believes that any building or sitework does not comply with the Building Act 1991, the Inspector shall by notice in writing give to the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply.</p> <p>“(2) For the purposes of this section, the terms ‘building’, ‘sitework’, and ‘territorial authority’ have the meanings ascribed to them by the Building Act 1991.”</p> <p>By repealing section 38(2), and substituting the following subsection:</p> <p>“(2) Where any person (whether a local authority or not) proposes to construct any crematorium, or to reconstruct or adapt any existing premises with intention that they be used as a crematorium, that person shall, before the work is commenced, submit to the Minister, in a form approved by the Director-General, the plans (including a site plan) and specifications thereof, and its equipment, for the Minister's approval.”</p>
1965, No 23-The Radiation Protection Act 1965 (RS Vol 18, p 673)	<p>By inserting, after section 24, the following section:</p> <p><b>“24A Building Act 1991</b></p> <p>“(1) Where a person referred to in section 24(1) of this Act believes that any building or sitework does not comply with the Building Act 1991, that person shall by notice in writing give to the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply.</p> <p>“(2) For the purposes of this section, the terms ‘building’, ‘sitework’, and ‘territorial authority’ have the meanings ascribed to them by the Building Act 1991.”</p>
1969, No 23-The Building Research Levy Act 1963 (RS Vol 21, p 195)	<p>By inserting in section 2, in its appropriate alphabetical order, the following definition:</p> <p><b>“Building consent</b> means a building consent in terms of the Building Act 1991; but does not include a consent issued in respect of any demolition.”</p> <p>By repealing the definition of the term <b>construction work</b> in section 2, and substituting the following definition:</p> <p><b>“Construction work or work</b> means any work in connection with the construction, erection, renewal, alteration, or improvement of a building for which a building consent is required under the Building Act 1991.”</p> <p>By repealing paragraphs (a) and (b) of section 5(2), and substituting the following paragraphs:</p> <p>“(a) The value (if any) specified in the building consent; or</p> <p>“(b) If no value is so specified, the value shall be such value as may be agreed upon between the association and the builder or, in default of such agreement, as may be determined by arbitration under section 6 of this Act.”</p> <p>By repealing section 5(3), substituting the following subsection:</p> <p>“(3) Every such levy shall become due and payable by the builder at the time the building consent is issued.”</p> <p>By omitting from section 7(2) the words “building permit”, and substituting the words “building consent”.</p> <p>By omitting from section 7(2) the word “permit”, and substituting the word “consent”.</p>
1971, No 25-The Mining Act 1971 (RS Vol 17, p 355)	<p>By inserting, after section 17, the following section:</p> <p><b>“17A Building Act 1991</b></p> <p>“(1) Where an Inspector believes that any building or sitework does not comply with the Building Act 1991, the Inspector shall by notice in writing give to the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply.</p> <p>“(2) For the purposes of this section, the terms ‘building’, ‘sitework’, and ‘territorial authority’ have the meanings ascribed to them by the Building Act 1991.”</p>

Act Amended	Amendment
1972, No 15-The Unit Titles Act 1972 (RS Vol 24, p 787)	<p>By inserting in section 48A(2)(f), after the words “erection and maintenance”, the words “,in accordance with the Building Act 1991”.</p> <p>By inserting in section 55(1)(ba), after the words “erect, maintain, and use”, the words “in accordance with the Building Act 1991,”.</p> <p>By inserting in section 152, after the words “Construction Act 1959,” in both places where they occur, the words “or the Building Act 1991,”.</p> <p>By repealing section 5A(1)(b) (as inserted by section 14(1) of the Unit Titles Amendment Act 1979).</p>
1974, No 66-The Local Government Act 1974 (RS Vol 25, p 1)	<p>By inserting in section 2(1), in its appropriate alphabetical order, the following definition:  <b>“Building consent</b> has the meaning ascribed to it by section 2 of the Building Act 1991.”</p> <p>By inserting in section 354(1), after the words “other excavation”, the words “(other than a cellar or other excavation to be constructed or made in accordance with a building consent under the Building Act 1991)”.</p> <p>• • • • •</p> <p>By repealing Part 37.</p> <p>• • • • •</p>
1975, No 122-The Disabled Persons Community Welfare Act 1975	<p>By inserting, after section 22, the following section:  <b>“22A Building Act 1991</b>  “(1) Where any person making an inspection in accordance with section 22 of this Act believes that any building or sitework does not comply with the Building Act 1991, that person shall by notice in writing give to the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply.  “(2) For the purposes of this section, the terms ‘building’, ‘sitework’, and ‘territorial authority’ have the meanings ascribed to them by the Building Act 1991.”</p> <p>By repealing section 25, and substituting the following section:  <b>“25 Access and facilities to and within buildings</b>  “(1) In an case where provision is being made for the construction or alteration of any building to which the public are to be admitted, whether on payment or otherwise, reasonable and adequate provision by way of access, parking provisions, and sanitary conveniences, shall be made for disabled persons who may be expected to visit or work in that building and carry out normal activities and processes in that building.  “(2) Notwithstanding the provisions of subsection (1) of this section, in respect of the alteration any existing building or premises, the Building Industry Authority may at any time by determination under Part 3 of the Building Act 1991 provide for a waiver or modification from all or any of the requirements of this section if, having regard to all the circumstances, the Building Industry Authority determines that it is reasonable to grant the waiver or modification.  “(3) Any provision that is made to meet the requirements of disabled persons in accordance with New Zealand Standard Specification No 4121 (being the code of practice for design for access and use of buildings by disabled persons) and any amendments thereof (whether made before or after the commencement of this subsection), or in accordance with any standard specification that is in substitution therefore, shall, in respect of-  “(a) Matters subject to the Building Act 1991, be deemed to be one of the documents establishing compliance with the building code for the purposes of section 49 of that Act:</p>

Act Amended	Amendment
	<p>“(b) Matters with respect to buildings and premises not subject to the Building Act 1991, be deemed to be a reasonable and adequate provision for the purposes of subsection (1) of this section.</p> <p>“(4) The provisions of this section shall apply to, but shall not be limited to, buildings, and parts of buildings, (including driveways, accessways, and passages within and between complexes and developments, and associated landscaping, if any) that are intended to be used for or associated with one or more of the following purposes:</p> <p>“(a) Land, sea, and air passenger transport terminals and facilities and interchanges, whether wholly on land or otherwise:</p> <p>“(b) Public toilets wherever situated:</p> <p>“(c) Banks:</p> <p>“(d) Child-care centres and kindergartens:</p> <p>“(e) Day-care centre and facilities:</p> <p>“(f) Commercial buildings and premises for business and professional purposes, including computer centres:</p> <p>“(g) Central, regional, and local government officers and facilities:</p> <p>“(h) Courthouses:</p> <p>“(i) Police stations:</p> <p>“(j) Hotels, motels, hostels, halls of residence holiday cabins, groups of pensioner flats, boardinghouses, guest houses, and other premises providing accommodation for the public:</p> <p>“(k) Hospitals, whether public or private, nursing homes, and old people's homes:</p> <p>“(l) Area health board premises and facilities:</p> <p>“(m) Medical and dental surgeries, and medical and paramedical and other primary health centres:</p> <p>“(n) Educational institutions, including public and private primary, intermediate, and secondary schools, universities, polytechnics, and other tertiary institutions:</p> <p>“(o) Libraries, museums, art galleries, and other cultural institutions:</p> <p>“(p) Churches, chapels, and other places of public worship:</p> <p>“(q) Places of assembly, including auditoriums, theatres, cinemas, halls, sports stadiums, conference facilities, clubrooms, recreation centres, and swimming baths:</p> <p>“(r) Shops, shopping centres, and shopping malls:</p> <p>“(s) Restaurants, bars, cafeterias, and catering facilities:</p> <p>“(t) Showrooms and auction rooms:</p> <p>“(u) Public laundries:</p> <p>“(v) Petrol and service stations:</p> <p>“(w) Funeral parlours:</p> <p>“(x) Television and radio stations:</p> <p>“(y) Car parks, parking buildings, and parking facilities:</p> <p>“(z) Factories and undertakings within the meaning of the Factories and Commercial Premises Act 1981 employing more than 10 persons:</p> <p>“(za) Other buildings, premises, or facilities to which the public are to be admitted, whether on payment or otherwise.</p> <p>“(5) Where any provision required by this section is made at a building in compliance therewith, a notice or sign that indicates in accordance with the international access symbol that provision is made for the needs of disabled persons shall</p>

Act Amended	Amendment
1975, No 42-The Fire Service Act 1975	<p>be displayed outside the building or so as to be visible from the outside it.</p> <p>“(6) This section shall bind the Crown.</p> <p>“(7) For the purposes of this section the terms ‘construct’, ‘construction’, ‘alter’, and ‘alteration’ have the meanings ascribed to them by the Building Act 1991.”</p> <p>By inserting in section 2 (as substituted by section 2(1) of the Fire Service Amendment Act 1990), in their appropriate alphabetical order, the following definitions:</p> <p>“<b>Building</b> has the meaning ascribed to it by the Building Act 1991:</p> <p>“<b>Building code</b> has the meaning ascribed to it by the Building Act 1991:</p> <p>“<b>Fire hazard</b> has the meaning ascribed to it by Building Act 1991:</p> <p>“<b>Household unit</b> has the meaning ascribed to it by the Building Act 1991:</p> <p>“<b>Means of escape from fire</b> has the meaning ascribed to it by the Building Act 1991:</p> <p>“<b>Sitework</b> has the same meaning ascribed to it by the Building Act 1991.”</p> <p>By repealing the definition of the term “private dwelling” in section 2 (as so substituted).</p> <p>By inserting in section 21(1), after the words “building industry”, the words “the Building Industry Authority,”.</p> <p>By inserting in section 21(3), after the words “consultation with”, the words “the Building Industry Authority, where appropriate,”.</p> <p>By adding to section 21 the following subsections:</p> <p>“(5) Where a code of practice or standard is submitted pursuant to subsection (4) of this section for the Minister's approval, the Minister may approve that code of practice or standard.</p> <p>“(6) Notwithstanding the provisions of subsection (5) of this section, the Minister shall not approve any code of practice or standard, under that subsection, in relation to building matters if that code or standard purports to have the effect of requiring any building to achieve performance criteria additional to or more restrictive than those specified in the Building Act 1991 or in the building code.”</p> <p>By inserting, after section 21, the following section:</p> <p><b>“21A Evacuation schemes for public safety</b></p> <p>“(1) Subject to subsection (3) of this section, where any building is used as a place-</p> <p>“(a) Where 100 or more people are able to be present for different purposes or activities; or</p> <p>“(b) Where facilities for employment are provided for more than 10 people (whether self-employed or employed by 1 or more employers); or</p> <p>“(c) Where accommodation is provided for more than 5 people whether on an overnight, short-term or long-term basis (other than 3 or less household units); or</p> <p>“(d) Which is used for any 2 or more of the purposes provided for in this subsection-</p> <p>and the building is not sprinkler-protected, or, in the opinion of the National Commander, has an automatic sprinkler system that is inadequate to meet the nature of the fire hazard, the National Commander may require the owner of that building to make provision for a scheme which provides for evacuation from the scene of a fire to a place of safety outside the building.</p> <p>“(2) Notwithstanding the provisions of subsection (1) of this section but subject to subsection (3) of this section, where any building or part thereof is used as a place-</p> <p>“(a) Where 100 or more people can gather or assemble together in a common venue or place of assembly, whether for a commercial, social, cultural, religious, or any other purpose whatsoever; or</p> <p>“(b) Which is used in whole or in part for the storage or processing of hazardous substances; or</p> <p>“(c) In which early childcare facilities are provided (other than in a household unit); or</p> <p>“(d) In which specialised nursing, medical, or geriatric care is provided (other than in a household unit); or</p>

Act Amended	Amendment
	<p>“(e) In which specialised care is provided for people with disabilities (other than in a household unit); or</p> <p>“(f) For the accommodation of people in lawful detention; or</p> <p>“(g) For any 2 or more of the purposes provided for in this subsection-</p> <p>the National Commander may require the owner of that building to make provision for a scheme which-</p> <p>“(h) In the case of a building which is sprinkler-protected, provides for evacuation from the scene of a fire to some other place of safety (whether within or outside the building):</p> <p>“(i) In the case of a building which is not sprinkler-protected, provides for evacuation from the scene of a fire to a place of safety outside the building.</p> <p>“(3) For the purposes of subsections (1) and (2) of this section, the National Commander's requirements shall be as prescribed in regulations made under this Act, which regulations shall specify, with respect to sprinkler-protected buildings and non-sprinkler-protected buildings, such evacuation times and procedures as are necessary for safeguarding persons who are lawful occupants of the building or who are otherwise lawfully entitled to be in the building (whether as visitors or otherwise) including, in the case of buildings to which section 25 of the Disabled Persons Community Welfare Act 1975 applies, the evacuation of persons with disabilities.</p> <p>“(4) For the purposes of subsection (3) of this section, the requirements for such evacuation times and procedures as are necessary for safeguarding persons shall, in the case of the regulations, also be deemed to include, with respect to any sprinkler-protected building, the criteria that shall be applied by the National Commander in determining whether evacuation from the scene of a fire shall be to some other place within or outside the building.</p> <p>“(5) Where any owner fails, within the time required by the regulations, to prepare a scheme to the National Commander's requirements or otherwise refuses to prepare a scheme, or where a scheme that was previously approved becomes inoperative because of the failure of the owner to ensure the requirements of the scheme are fully maintained, the National Commander, on giving not less than 10 days' written notice of his or her intention to do so to the owner of the building, may apply to the District Court for an order under subsection (6) of this section.</p> <p>“(6) If, after giving the National Commander and owner of the building an opportunity to be heard, the District Court is satisfied that the owner of a building has failed to comply with subsection (5) of this section, the District Court may make an order requiring that the building be closed until the requirement for a scheme to be prepared or for a scheme to become operative, as the case may be, has been met.</p> <p>“(7) Where any building does not require a scheme in terms of subsection (1) or subsection (2) of this section but the owner considers that a scheme should nevertheless be approved, the owner shall notify the National Commander; and the provisions of this section, other than subsections (5) and (6), shall apply accordingly.</p> <p>“(8) Where any scheme is approved for the purposes of this section it shall be a requirement of that scheme that-</p> <p>“(a) The appointment of building wardens and floor wardens be reviewed at not less than 6-monthly intervals; and</p>

Act Amended	Amendment
	<p>“(b) The duties of building wardens and floor wardens should be provided for in the scheme; and</p> <p>“(c) There be trial evacuations at prescribed intervals; and</p> <p>“(d) The means of escape from fire shall be monitored by the owner and properly maintained; and</p> <p>“(e) Special provision is made for the avoidance of panic on the part of members of the public who are lawfully in the building at the time the building is required to be evacuated; and</p> <p>“(f) Special provision is made for-</p> <p>“(i) Young children, the elderly, the sick, and persons with disabilities, where the building or part of it is for their care; and</p> <p>“(ii) Those in lawful detention, where the building or part of it is for their detention.</p> <p>“(9) The National Commander may grant waivers from the requirement of any building to which subsections (1) and (2) of this section applies where, in the opinion of the National Commander, there are already other provisions which will ensure the safety of people within the building.</p> <p>“(10) Where any building for which a scheme is approved is altered or there is a change of use, the National Commander shall review therequirements for the scheme, and the provisions of subsection (1) to (9) of this section shall apply with the necessary modifications.</p> <p>“(11) For the purposes of subsection (1)(a) and subsection (2)(a) of this section, the question of whether a building can be categorised as coming within the scope of those provisions shall be determined in the light of the use to which the building is put, and the provisions of building the building code, in terms of the Building Act 1991.</p> <p>“(12) For the purposes of this section any evacuation scheme approved pursuant to the Fire Safety (Evacuation of Buildings) Regulations 1970 and which is still an operative scheme shall be deemed to be a scheme approved under this section.”</p>
	<p>By repealing section 22.</p> <p>By omitting from section 29(1) (as substituted by section 23 of the Fire Service Amendment Act 1990) the words “private dwellings”, and substituting the words “household units”.</p>
	<p>By adding to section 29 (as so substituted) the following subsections:</p> <p>“(5) Where a person having access to land and buildings under this section believes that any building or sitework does not comply with the Building Act 1991, that person shall be notice in writing give to the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply.</p> <p>“(6) For the purposes of subsection (5) of this section, the terms ‘building’, ‘sitework’, and ‘territorial authority’ have the meanings ascribed to them by the Building Act 1991.”</p>
	<p>By repealing subsections (3) and (4) of section 92, and substituting the following subsection:</p> <p>“(3) Without limiting the power to make regulations conferred by subsection (1) of this section, regulations may also be made under this section to provide for the matters set out in section 21A(3), (4), (5), and (8) of this Act.”</p>
<p>1975, No 9-The Ombudsmen Act 1975 (RS Vol 21, p 657)</p>	<p>By inserting in Part 2 of Schedule 1, in its appropriate alphabetical order, the following item:</p> <p>“The Building Industry Authority.”</p>
<p>1976, No 69-The Plumbers, Gasfitters, and Drainlayers Act 1976</p>	<p>By repealing section 63(2).</p>
<p>1977, No 43-The Agricultural Workers Act 1977 (RS Vol 22, p1)</p>	<p>By inserting, after section 6, the following section:</p> <p><b>“6A Building Act 1991</b></p> <p>“(1) Where an Inspector believes that any building or sitework does not comply with the Building Act 1991, the Inspector shall by notice in writing give to the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply.</p>

Act Amended	Amendment
1978, No 13-The Massage Parlours Act 1978	<p>“(2) For the purposes of this section, the terms ‘building’, ‘sitework’, and ‘territorial authority’ have the meanings ascribed to them by the Building Act 1991.”</p> <p>By repealing section 50.</p> <p>By omitting from section 61(a) the words “design, construction, and”.</p> <p>By repealing section 14(1), and substituting the following subsection:</p> <p>“(1) An application for the renewal of a licence shall be filed in the Court not earlier than 12 weeks and not later than 6 weeks preceding the date of the expiry of the licence, and shall include a statement by the licensee that-</p> <p>“(a) The building in which the premises are situated has an evacuation scheme for public safety which meets the requirements of section 21A of the Fire Service Act 1975; or</p> <p>“(b) The building, by reason of its current use, does not require such a scheme, or that the building is exempt from having to meet the requirements for such a scheme.”</p>
1979, No 21-The Coal Mines Act 1979	<p>By inserting, after section 16, the following section:</p> <p><b>“16A Building Act 1991</b></p> <p>“(1) Where an Inspector believes that any building or sitework does not comply with the Building Act 1991, the Inspector shall by notice in writing give to the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply.</p> <p>“(2) For the purposes of this section, the terms ‘building’, ‘sitework’, and ‘territorial authority’ have the meanings ascribed to them by the Building Act 1991.”</p> <p>By omitting from section 103(a) the words “Construct, erect”, and substituting the words “Construct in accordance with the Building Act 1991,”.</p> <p>By inserting in section 122, after the words “Construction Act 1959”, the words “or the Building Act 1991”.</p>
1979, No 27-The Toxic Substances Act 1979	
1980, No 16-The Historic Places Act 1980	
1981, No 25-The Factories and Commercial Premises Act 1981	<p>By repealing sections 27(3) and 28(2).</p> <p>By omitting from section 37(1)(c) the words “and to section 37(1)(c)” the words “and to section 28(2)” of this Act.</p> <p>By repealing section 39, and substituting the following section:</p> <p><b>“39 Sanitary conveniences</b></p> <p>“The occupier of an undertaking shall ensure that the sanitary conveniences required by the Building Act 1991 are—</p> <p>“(a) Conveniently accessible to the persons for whose use they are intended; and</p> <p>“(b) Properly maintained and kept clean; and</p> <p>“(c) Where sanitary conveniences are provided for the use of females, provision to the satisfaction of an Inspector is made for the disposal of sanitary towels.”</p> <p>By repealing section 42, and substituting the following section:</p> <p><b>“42 Washing facilities</b></p> <p>“The occupier of an undertaking shall ensure that the washing facilities required by the Building Act 1991 are—</p> <p>“(a) Conveniently accessible to the persons for whose use they are intended; and</p> <p>“(b) Kept in a clean and orderly condition; and</p> <p>“(c) Supplied with soap and clean towels or other suitable means of cleaning and drying.”</p> <p>By adding to section 55 the following subsections:</p> <p>“(3) Notwithstanding anything to the contrary in subsection (2) of this section, no requisition issued by an Inspector shall have the purpose of requiring any building to achieve performance criteria additional to or more restrictive than those in the Building Act 1991 or the building code.</p> <p>“(4) For the purposes of subsection (3) of this section, the terms ‘building’ and ‘performance criteria’ have meaning ascribed to them by the Building Act 1991.”</p> <p>By inserting, after section 57, the following section:</p>



Act Amended	Amendment
1981, No 56-The Meat Act 1981	<p><b>“57A</b></p> <p><b>Building Act 1991</b></p> <p>“(1) Without limiting the generality of sections 56 and 57 of this Act, where an Inspector believes that any building or sitework does not comply with the Building Act 1991, the Inspector shall be notice in writing give to the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply.</p> <p>“(2) For the purposes of this section, the terms ‘building’, ‘sitework’, and ‘territorial authority’ have the meanings ascribed to them by the Building Act 1991.”</p> <p>By inserting, after section 8, the following section:</p>
1981, No 35-The Public Works Act 1981	<p><b>“8A</b></p> <p><b>Building Act 1991</b></p> <p>“(1) Where an Inspector or examining officer believes that any building or sitework does not comply with the Building Act 1991, the Inspector or examining officer shall by notice in writing give to the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply.</p> <p>“(2) For the purposes of this section, the terms ‘building’, ‘sitework’, and ‘territorial authority’ have the meanings ascribed to them by the Building Act 1991.”</p> <p>By repealing section 25(1), and substituting the following subsection:</p> <p>“(1) Subject to any regulations made under this Act, where any person proposes to erect any premises, or to reconstruct or adapt any existing premises, with the intention that they be used as premises for which a licence is required under this Act, that person shall, before the work is commenced, submit to the Director-General, the plans (including a site plan) and specifications thereof and its equipment for the Director-General's approval.”</p> <p>By repealing section 26(2)(b)(i) (as substituted by section 2 of the Meat Amendment Act 1988), and substituting the following subparagraph:</p> <p>“(i) The premises concerned comply with the Building Act 1991 and all relevant planning schemes; and.”</p> <p>By omitting from section 49(1)(m) the word “construction”, and substituting the words “layout and fitout (including food contact surfaces),”.</p> <p>By inserting in section 49, after subsection (1A), the following subsection:</p> <p>“(1B) Notwithstanding section 7(2) of the Building Act 1991, regulations made under subsection (1)(r) of this subsection may require persons undertaking building work to achieve performance criteria additional to or more restrictive than those specified in the building code in force under that Act.”</p>
1987, No 178-The Fencing of Swimming Pools Act 1987	<p>By adding to section 184 the words “in accordance with the Building Act 1991, where the Act applies to the work”.</p> <p>By omitting from the definition of the term “fence” in section 2 the words “Schedule to this Act”, and substituting the words “building code in force under the Building Act 1991 in respect of swimming pools subject to this Act;”.</p> <p>By adding to section 7 the following subsection:</p> <p>“(3) An application for a building consent under the Building Act 1991 in respect of the construction or installation of a pool shall be deemed to be notification under this section.”</p> <p>By omitting from section 8(1) the words “Schedule to this Act”, and substituting the words “building code in force under the Building Act 1991 in respect of swimming pools subject to this Act”.</p> <p>By repealing subsections (1) and (2) of section 13.</p> <p>By inserting, after section 13, the following sections:</p> <p><b>“13A</b></p> <p><b>Effect of Building Act 1991 on bylaws</b></p> <p>“(1) A territorial authority may not make any bylaw under this Act that purports to have the effect of requiring any pool subject to this Act to achieve performance criteria additional to or more restrictive than those specified in the Building Act 1991 or the building code in force under that Act.</p> <p>“(2) A territorial authority may not make any bylaw purporting to have the effect of allowing a pool subject to this Act to be fenced to a standard that would provide less protection</p>

Act Amended	Amendment
1989, No 63-The Sale of Liquor Act 1989	<p>against young children gaining access to the pool than the performance standard set by the said building code.</p> <p><b>“13B Fencing in accordance with Schedule deemed a means of compliance</b></p> <p>“Any provision that is made for fencing of swimming pools which is in accordance with the Schedule to this Act shall, in respect of-</p> <p>“(a) Matters subject to the Building Act 1991, be deemed to be one of the documents establishing compliance with the building code for the purposes of section 49 of that Act, and the requirements of this Act:</p> <p>“(b) Buildings and premises not subject to the Building Act 1991, be deemed to be a reasonable and adequate provision for the purposes of this Act.</p> <p><b>“13C Amendment and replacement of Schedule</b></p> <p>“The Governor-General may from time to time, by Order in Council made on the advice of the Minister of Internal Affairs, amend the Schedule to this Act or repeal that Schedule and substitute a new Schedule.”</p> <p>By omitting from the Schedule the expression “Section 8”, and substituting the expression “Sections 13B, 13C”.</p> <p>By omitting from the heading to the Schedule the word “REQUIREMENT”, and substituting the words “MEANS OF COMPLIANCE”.</p> <p>By omitting from the Schedule the expression “Section 8”, and substituting the expression “Sections 13B, 13C”.</p> <p>By inserting in section 2, in its appropriate alphabetical order, the following definition:  <b>“Building code</b> has the meaning ascribed to it by the Building Act 1991.”</p> <p>By omitting from section 9(1)(e) the words “town planning requirements”, and substituting the words “requirements of the Resource Management Act 1991 and of the building code.”</p> <p>• • • • •</p> <p>By inserting in section 18(2), after paragraph (d), the following paragraph:  “(da) Where the application relates to any premises, be accompanied by a statement by the applicant that—</p> <p>“(i) The building in which the premises are situated has an evacuation scheme for public safety which meets the requirements of section 21A of the Fire Service Act 1975; or</p> <p>“(ii) The building, by reason of its current use, does not require such a scheme, or that the building is exempt from having to meet the requirements for such a scheme; and.”</p> <p>By omitting from section 31(1)(e) the words “town planning requirements”, and substituting the word “requirements of the Resource Management Act 1991 and of the building code”.</p> <p>• • • • •</p> <p>By inserting in section 41(2), after paragraph (d), the following paragraph:  “(da) Where the application relates to any premises, be accompanied by a statement by the applicant that—</p> <p>“(i) The building in which the premises are situated has an evacuation scheme for public safety which meets the requirements of section 21A of the Fire Service Act 1975; or</p> <p>“(ii) The building, by reason of its current use, does not require such a scheme, or that the building is exempt from having to meet the requirements for such a scheme; and.”</p> <p>By omitting from section 55(1)(e) the words “town planning requirements”, and substituting the words “requirements of the Resource Management Act 1991 and of the building code”.</p> <p>By inserting in section 64(2), after paragraph (d), the following paragraph:  “(da) Where the application relates to any premises, be accompanied by a statement by the applicant that—</p> <p>“(i) The building in which the premises are situated has an evacuation scheme for public safety which meets the requirements of section 21A of the Fire Service Act 1975; or</p> <p>“(ii) The building, by reason of its current use, does not require such a scheme, or that the building is exempt from having to meet requirements for such a scheme; and.”</p> <p>• • • • •</p> <p>By repealing section 80(3)(b), and substituting the following paragraph:</p>

Act Amended	Amendment
	<p>“(b) The District Licensing Agency may have regard to the site of the premises in relation to neighbouring land use and, where the premises are located in a building, to whether—</p> <p>“(i) The building has an evacuation scheme for public safety which meets the requirements of section 21A of the Fire Service Act 1975; or</p> <p>“(ii) The building, by reason of the activity which is associated with the issue of the licence, requires an evacuation scheme for public safety which meets the requirements of section 21A of the Fire Service Act 1975.”</p> <p>By omitting from section 134(1) the words “or to the provision of safeguards against or means of warning or escape in case of fire” and substituting the words “or to the escape of people in the event of fire (whether in accordance with an evacuation scheme for public safety which meets the requirements of section 21A of the Fire Service Act 1975 or by other means).”</p> <p>By inserting, after section 131, the following section:</p> <p><b>“131A Building Act 1991</b></p> <p>“(1) Where an Inspector believes that any building or sitework does not comply with the Building Act 1991, the Inspector shall by notice in writing give the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply.</p> <p>“(2) For the purposes of this section, the terms ‘building’, ‘sitework’, and ‘territorial authority’ have the meanings ascribed to them the Building Act 1991.”</p> <p>By inserting in section 134(1), after the words “comply with any requirements”, the words “(other than requirements under the Building Act 1991)”.</p> <p>By omitting from section 134(3) the words “carry out all such work”, and substituting the words “do all such things”.</p> <p>By omitting from section 134(4) the words “all work necessary or desirable to remedy the default has been carried out”, and substituting the words “all things necessary or desirable to remedy the default have been done”.</p>
1989, No 24—The Children, Young Persons, and Their Families Act 1989	<p>By inserting, after section 467, the following section:</p> <p><b>“467A Building Act 1991</b></p> <p>“(1) Where any person making inspections under this Act believes that any building or sitework does not comply with the Building Act 1991, that person shall by notice in writing give to the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply.</p> <p>“(2) For the purposes of this section, the terms ‘building’, ‘sitework’, and ‘territorial authority’ have the meanings ascribed to them by the Building Act 1991.”</p>
[1989, No 80—The Education Act 1989	<p>By inserting in Part 11, before section 140, the following section:</p> <p><b>“139B Building Act 1991</b></p> <p>“(1) Where any person making an inspection under this Act believes that any building or sitework does not comply with the Building Act 1991, that person shall by notice in writing give to the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply.</p> <p>“(2) For the purposes of this section, the terms ‘building’, ‘sitework’, and ‘territorial authority’, have the meanings ascribed to them by the Building Act 1991.”]</p>
1991, No 69—The Resource Management Act 1991	<p>• : : : :</p> <p>• : : : :</p> <p>By repealing section 244.</p> <p>By adding to section 408 the following subsection:</p> <p>“(2) Nothing in section 224(f) of this Act shall apply to any subdivision of land for which a subdivision consent was granted on or after the 1st day of October 1991 and on or before the 30th day of June 1992.”</p>

## Schedule 5

### Enactments repealed

Section 92(2)

1958, No 68—The Health Amendment Act 1958. (RS Vol 19, p 606.)

1964, No 34—The Health Amendment Act 1964: Section 10. (RS Vol 19, p 609.)  
 1973, No 111—The Health Amendment Act 1973: Section 7. (RS Vol 19, p 612.)  
 1979, No 59—The Local Government Amendment Act 1979: So much of Part 3 of Schedule 3 as relates to the Fire Service Act 1975. (RS Vol 25, p 624.)  
 1979, No 64—The Health Amendment Act 1979: Sections 3(2) and 6. (RS Vol 19, pp 613 and 614.)  
 1980, No 82—The Local Government Amendment Act 1980: Section 48. (RS Vol 25, p 632.)  
 1981, No 111—The Local Government Amendment Act (No 2) 1981: Sections 19 to 22. (RS Vol 25, p 636.)  
 1982, No 34—The Health Amendment Act 1982: Section 3. (RS Vol 19, p 615.)  
 1982, No 166—The Local Government Amendment Act (No 2) 1982: Section 25. (RS Vol 25, p 639.)  
 1983, No 134—The Area Health Boards Act 1983: So much of the Schedule as relates to sections 50 and 51 of the Health Act 1956.  
 1985, No 60—The Local Government Amendment Act 1985: Section 36. (RS Vol 25, p 646.)  
 1986, No 18—The Fire Service Amendment Act 1986: Section 2(6).  
 1987, No 10—The Health Amendment Act 1987: Section 15. (RS Vol 19, p 620.)  
 1988, No 97—The Rating Powers Act 1988: So much of Schedule 5 as relates to section 624(3)(c) of the Local Government Act 1974.  
 1989, No 24—The Children, Young Persons, and Their Families Act 1989: Section 452  
 1990, No 136—The Fire Service Amendment Act 1990: Sections 16 and 63(7).  
 1991, No 69—The Resource Management Act 1991: So much of Part 1 of Schedule 8 as relates to sections 637 and 643 of the Local Government Act 1974.

## Schedule 6

### Regulations and orders revoked

Section 92(3)

Title	Statutory Regulations Serial Number or <i>Gazette Reference</i>
The Municipal Corporations (Earthquake Dangers) Order 1969	1969/103
The Municipal Corporations (Earthquake Dangers) Order (No 2) 1969	1969/204
The Fire Safety (Evacuation of Buildings) Regulations 1970	1970/42
The Counties (Earthquake Dangers) Order 1970	1970/146
The Fire Safety (Evacuation of Buildings) Regulations 1970, Amendment No 1	1971/115
The Municipal Corporations (Earthquake Dangers) Order 1970	1970/149
The Municipal Corporations (Earthquake Dangers) Order (No 2) 1970	1970/237
The Municipal Corporations (Earthquake Dangers) Order 1971	1971/260
The Municipal Corporations (Earthquake Dangers) Order 1972	1972/28
The Municipal Corporations (Earthquake Dangers) Order (No 2) 1972	1972/258
The Municipal Corporations (Earthquake Dangers) Order 1976	1976/39
The Municipal Corporations (Earthquake Dangers) Order (No 2) 1976	1976/109
The Municipal Corporations (Earthquake Dangers) Order 1978	1978/306
The Local Government (Earthquake Dangers) Order 1987	1987/196
The Local Government (Earthquake Dangers) Order (No 2) 1987	1987/280
The Local Government (Earthquake Dangers) Order 1990	<i>Gazette</i> , 1990, Vol III, p 2837
The Local Government (Earthquake Dangers) Order (No 2) 1990	1990/304
The Local Government (Earthquake Dangers) Order (No 3) 1990	1990/346
The Local Government (Earthquake Dangers) Order 1991	1991/176

**Publisher's Note**

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