

BILLS DIGEST

BUILDING AMENDMENT BILL 2007

Date of Introduction: 18 July 2007

Bills Digest No. 1529



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Bills Digest No. 1529

Published by the Parliamentary Library
Parliament Buildings, Wellington
New Zealand.

06 August 2007

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BUILDING AMENDMENT BILL 2007

Date of introduction:	18 July 2007
Portfolio:	Building and Construction
Select Committee:	As at 31 July, 1st reading not held

PURPOSE

This Bill contains some minor adjustments to improve the workability of the Building Act 2004 (the Act). The public policy objective is to amend the Act to improve the clarity and effectiveness of the regulatory framework¹.

BACKGROUND

A recent media release² issued by the Minister for Building and Construction, Hon Clayton Cosgrove, stated that the Bill fine-tuned New Zealand's building legislation.

The release stated that the Bill, in particular:

- clarifies and reorganises building consent exemptions (ensuring, in particular, that weathertightness repairs are not made without a building consent);
- makes minor adjustments to the future dam safety scheme; and gives dam owners an incentive to become accredited;
- helps to improve compliance with building accessibility requirements at the building design stage; and
- clarifies the language and rules relating to the licensing of building practitioner.

The Bill makes detailed and technical changes to the Bill to:

- "alter the basis on which accreditation fees may be collected, so that the approval and appointment of a product certification accreditation body can proceed in 2007 as planned;
- "clarify the approach to exemptions from building consent requirements (for example, reverting to the regime of the Building Act 1991 regarding culverts,

¹ Building Amendment Bill, 2007 No 128-1, Explanatory note, General policy statement, p.1.

² Media release, Hon Clayton Cosgrove, Minister for Building and Construction, *Government fine-tunes building law*, 18 July 2007
(www.beehive.govt.nz/Print/PrintDocument.aspx?DocumentID=30078)

small dams, and certain pylons, plumbing and drainage work), and in particular to require a building consent for weathertightness remediation work;

- "adjust the future dam safety scheme to align it to a greater extent with international and New Zealand risk continuum paradigms, for example, by adding new categories for earthquake-prone and flood-prone dams; and by adding an incentive for dam owners to become accredited (an exemption from annual compliance certificate requirements);
- "clarify that small dams should be regulated by regional authorities as dams, not regulated by territorial authorities as buildings; and reintroduce the small dams exemption from building consent requirements (removing compliance costs for owners of small dams);
- "fine-tune some elements of the scheme to license building practitioners, for example, set out the purpose of the scheme in a purpose clause; clarify that certification is an information provision requirement only (and therefore avoid the creation of any potential tort liability for licensed building practitioners); and introduce a new term, significant building project, to facilitate a whole-of-building concept as well as the element-based concept in the term restricted building work;
- "require territorial authorities to include on project information memoranda (PIMs) for public use buildings a statement flagging that there are accessibility requirements in the Act and the building code, to assist in improving compliance with accessibility requirements at the building design stage;
- "make a number of minor or technical amendments to the Building Act 2004 to correct errors, omissions, and inconsistencies"³.

MAIN PROVISIONS

Applying for a building consent

Section 45 of the Act sets out in some detail the form of applications for building consents and the documents which must accompany them.

The Bill alters the building consent application requirements for the plans and specifications related to design work that is restricted building work. Those plans and specifications must be prepared by, or under the supervision of, licensed building practitioners, and a memorandum about the work must be provided (*Part 1, Clause 12 amending Section 45 of the Act by substituting new subsection (2)*).

Waiver or modification of the building code

The Bill amends the provision of the Act relating to the chief executive's grant of a waiver or modification of the building code in certain cases only by replacing a to people with disabilities with a reference to persons with disabilities, a defined term under the Act (*Part 1, Clause 13 amending Section 69 of the Act*).

³ Building Amendment Bill, 2007 No 128-1, Explanatory note, General policy statement, pp. 1 and 2.

Restricted building work be carried out or supervised by building practitioners.

The Bill makes it clear that a licensed building practitioner is licensed to carry out or supervise certain types of work corresponding to a licensing class, or licensing classes, in which the licensed building practitioner is licensed, instead of the licensed building practitioner being authorised, by a licence issued to and held by the licensed building practitioner, to carry out or supervise that work (*Part 1, Clauses 16 and , amending Sections 84 and 85 of the Act*).

Building practitioner must certify restricted building work to certify the work

The bill provides that a licensed building practitioner who carries out or supervises restricted building work under a building consent is required to provide a memorandum as to what restricted building work the licensed building practitioner carried out or supervised. (*Part 1, Clause 19, amending Section 88 of the Act*).

Exemptions from building consent requirements

The Bill amends provisions relating to exemptions from building consent requirements including in relation to culverts, small dams, and certain pylons, plumbing and drainage work) and, in particular, to require a building consent for weathertightness remediation work (*Part 1, Clause 91, amending Schedule 1 of the Act*).

Dam safety

The Bill amends the dam safety scheme by for example, adding new categories for earthquake-prone and flood-prone dams; and by adding an incentive for dam owners to become accredited and so be exempted from annual compliance certificate requirements. The Bill also provides that small dams should be regulated by regional authorities as dams, not regulated by territorial authorities as buildings and reintroduces the small dams exemption from building consent requirements (*Part 1, Clauses 29 - 43*).