

## REGULATORY MANAGEMENT COMMITTEE

### LEGISLATION UPDATE FOR 22 OCTOBER 2015

Legislative Item	Comment	Update on Progress (Latest entry in Bold)
<b>Building Amendment Act 2012</b>	<p>This Act is part of a package of changes which introduce a range of new consents with corresponding time frames based on risk. The details of this framework are to be set by Order in Council and be supported by regulation.</p> <p>The types of consents include the following:</p> <ul style="list-style-type: none"> <li>• Low risk building consent - to be granted within 5 working days and is not required to inspect before issuing Consent Completion Certificate (CCC).</li> <li>• Simple residential consent - to be granted within 5 working days and is only required to undertake the prescribed inspections before issuing CCC.</li> <li>• Standard building consent- similar regime as currently undertaken with building consents.</li> <li>• Commercial building consents - to be granted within 20 working days- information provided regarding risk profile of application and quality assurance system that will apply to building work. Inspections are likely to audit the quality system that is being used for work rather than work itself.</li> </ul>	<p>Enacted March 2012.</p> <p>Minor and/or technical changes as a result of this amendment came into force immediately on 12 March 2012.</p> <p>However, the commencement date for the remaining more significant changes will not come into force until a date appointed by the Governor-General by Order in Council. At this stage we are still awaiting that Order in Council.</p> <p>There were some suggestions that regulations in this area would progress in 2015 but to date this has not happened.</p> <p><b>As at 9 October 2015</b></p> <p><b>There has been no further progress with this legislation.</b></p>
<b>Building (Earthquake-prone buildings) Amendment Bill 2013</b>	<p>The key components of this Bill are:</p> <p>To require territorial authorities to undertake seismic capacity assessment of all non-residential and multi-storey/multi-unit residential buildings (as currently defined in section 122 of Building Act) in their districts within five years from commencement, using a methodology specified and published by the Ministry of Business Innovation and Employment (MBIE).</p> <ul style="list-style-type: none"> <li>• Territorial authorities to prioritise for assessment according to a</li> </ul>	<p>The Bill received its First Reading on 5 March 2014 and was referred to the Local Government and Environment Select Committee. Submissions closed on 17 April 2014. The select committee was due to report on the Bill to Parliament on, or before, 5 September 2014.</p> <p>Recent comments from government ministers have mentioned changes to the Bill to modify the</p>

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	<p>framework to be specified and published by MBIE.</p> <ul style="list-style-type: none"> <li>• Territorial authorities to provide the results of the assessments to the relevant building owner.</li> <li>• Owners will be able to provide an engineering assessment as specified by MBIE if they disagree with the territorial authorities' assessment.</li> <li>• There will be a National Register on earthquake prone buildings held by MBIE that will be able to be searched by public.</li> <li>• There will also be the ability for owners to seek exemptions from these requirements from the territorial authorities and special provisions for heritage buildings.</li> </ul>	<p>timeframes and types of buildings that may be impacted.</p> <p>The Local Government and Environment Select Committee report is now due on 30 July 2015.</p> <p>There are likely to be significant changes to this bill as a result of the select committee process.</p> <p>The bill as reported back to Parliament does not have any significant changes for our district.</p> <p><b>As at 9 October 2015</b></p> <p><b>The Local Government and Environment Select Committee reported back on 2 September 2015 and this bill is currently awaiting further readings in Parliament.</b></p>
<p><b>Weathertight Homes Resolution Services Amendment Bill</b></p>	<p>This bill was introduced into Parliament on 23 February 2015 and deals with the following matters</p> <ul style="list-style-type: none"> <li>• Assists claimants in similar circumstances as the Osborne's receive the benefits of the Supreme Court decision (this was regarding timing of work)</li> <li>• Deals with uncertainty of claimants when legislation timeframe expires</li> </ul> <p>It clarifies the standing of regulations that have been recently gazetted.</p>	<p>This bill has been referred to the Local Government and Environment Select Committee. This bill is not likely to have any significant impact on the claims received by this Council.</p> <p><b>As at 9 October 2015</b></p> <p><b>This bill had its second reading on 17 September 2015.</b></p>
<p><b>Food Act 2014</b></p>	<p>The Food Act 2014 introduces some fundamental changes to NZ's domestic food regulatory regime. The Act has come about through research conducted since 2003 as part of the Domestic Food Review – only the second review of the domestic food sector in over 30 years. Through a risk-based approach, it seeks to:</p> <ul style="list-style-type: none"> <li>• clarify the role of regulators,</li> <li>• remove the need for local bylaws, by having a single set of</li> </ul>	<p>The Food Bill received Royal Assent on 6 June 2014. The Food Act 2014 will come fully into force on 1 March 2016 unless brought into force earlier through an Order in Council.</p> <p>A report providing an overview of the Food Act 2014 was provided to the 2 October 2014 meeting</p>

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	<p>rules for training, registration and other food safety aspects, and</p> <ul style="list-style-type: none"> <li>• improve compliance and enforcement.</li> </ul> <p>Where appropriate these new requirements will be reflected (once we have the detail of the associated regulations) in the Environmental Health quality assurance system.</p>	<p>of this Committee.</p> <p><b>As at 26 August 2015</b></p> <p><b>An update was received by MPI with regard to the proposed regulations and some updates from Cabinet.</b></p> <ol style="list-style-type: none"> <li><b>1. Extended registration period for national programmes</b></li> </ol> <p><b>National programme businesses will now only require registration every two years as part of the plan to reduce costs for low risk businesses (coffee carts, honey manufacture, fruit and vegetable shops, corner dairies, petrol stations, breweries etc). Currently national programme businesses have to register yearly.</b></p> <ol style="list-style-type: none"> <li><b>2. End date of the Food Act's introductory period</b></li> </ol> <p><b>It has been confirmed that the end date for premises transitioning into the new system will be 28 February 2019.</b></p> <ol style="list-style-type: none"> <li><b>3. Creation of new food sector for the purposes of transition</b></li> </ol> <p><b>This means premises currently working under a food control plan (VIP) or a food safety programme will have the full 3 years to transition.</b></p>

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		<p><b>4. Cost recovery</b></p> <p><b>The regulations will make it clear that TA's have the ability to set fees and waive fees and charges.</b></p> <p><b><u>Food Act Transition Update</u></b></p> <p><b>Staff are scheduling visits to all restaurants and cafes that hold on licences, as these premises will be the first to transition on to food control plans. There are approximately 80 of these premises, of which 15 have already commenced working under a Food Control Plan and the Food Team have developed a plan to encourage as many businesses as possible to come across to the new legislated regime.</b></p> <p><b>Visits commenced in August with the other 60 plus establishments, with support and guidance being offered. Of those visited a number have already signed up to operate under the new system; staff are conducting in house training where viable and have planned group training sessions in October.</b></p>
<p><b>Fencing of Swimming Pools Act 1987</b></p>	<p>The Government is changing the Fencing of Swimming Pools Act 1987 (the Act) to strike a better balance between protecting young children from drowning in home pools and making the Act more workable for pool owners and local councils. The changes take into account 392 submissions received from safety groups, the pool industry, local councils, pool owners and others during public consultation.</p> <p>The current Act provides little guidance on how councils approach</p>	<p>The Government intends to introduce a Bill into Parliament to amend the Fencing of Swimming Pools Act 1987.</p> <p>The timing of the changes will depend on the Government's legislative priorities and the parliamentary process. The parliamentary process will include the Bill being referred to a select committee – normally for six months.</p>

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	<p>inspections and exemptions and as a result there is no national uniformity. The Ministry of Business, Innovation and Employment (MBIE) website states that councils will benefit from reduced costs and uncertainty by:</p> <ul style="list-style-type: none"> <li>• clearer requirements for restricting access to pools,</li> <li>• enforcement tools designed to encourage voluntary compliance, with councils having the power to issue warning notices and ultimately infringement notices,</li> <li>• councils being required to inspect swimming pools at least every five years,</li> </ul> <p>and</p> <ul style="list-style-type: none"> <li>• clarification that councils are not required to locate and inspect spa pools and portable pools – but may inspect properties they believe contain non-compliant spa pools and portable pools.</li> </ul> <p>Other changes to note include:</p> <ul style="list-style-type: none"> <li>• clearer requirements for restricting access to swimming pools,</li> <li>• child-resistant spa pools will no longer require an additional means of restricting access,</li> <li>• retailers will be required to inform people who purchase spa pools and portable pools of their obligations,</li> <li>• portable pools will be exempt if they are shallower than 300mm – a depth of pool that is generally practical to empty after each use,</li> <li>• garden ponds and other water hazards will be exempt if they are not intended for swimming, and</li> <li>• powers are created for councils to issue infringement notices and \$500 fee for persons not complying with a notice to remedy a breach of the Act.</li> </ul> <p>Where appropriate these new requirements will be reflected in (1) KPI's and (2) the yet to be developed Compliance Monitoring quality assurance system.</p>	<p>In the meantime, councils and pool owners must comply with the current Act.</p> <p><b>As at October 1 2015</b></p> <p><b>The Bill has moved on following consideration by Cabinet in 2013 and now submissions are being sought on the revised proposals.</b></p> <p><b>Compliance staff believe that the proposals will help clarify some of the anomalies that are created due to the interpretations of the Fencing Of Swimming Pools Act 1987 (FOSP Act) and differing views within the Building Act. They do feel that there are still issues that could be addressed regarding older pools that struggle to comply.</b></p> <p><b>The FOSP Act is retrospective and there are anomalies with respect to rail distances versus footholds to enable climbing, versus fence heights and these things create problems for owners and officers alike. There is an opportunity to eliminate these inconsistencies if they are addressed by Central Government.</b></p>

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	<p>The following shows how the proposed Bill has moved on following the initial submissions process and the changes cabinet has considered:</p> <p><b>What modifications has Cabinet made to the decisions it made in November 2013?</b></p> <p><b>The threshold for exempting portable pools</b> The current threshold for exempting portable pools will remain at 40 centimetres of water.</p> <p><b>The frequency of council inspections</b> Councils will be required to inspect swimming pools once every five years.</p> <p><b>Prosecutions as part of the enforcement regime</b> Prosecutions will be part of the enforcement toolkit for councils, along with warning notices<sup>4</sup> and infringement notices.</p> <p><b>Including the provisions in the Building Act 2004</b> The Fencing of Swimming Pools Act 1987 will be repealed and the pool safety rules will be included in the Building Act 2004.</p> <p><b>What changes are being made?</b> The Building (Pools) Amendment Bill will change the pool safety rules.</p> <p>The main changes are:</p> <ul style="list-style-type: none"> <li>• Spa pools and hot tubs with safety covers will no longer require an additional barrier (e.g. a fence) because safety covers already provide adequate protection. Furthermore, people will no longer need to obtain a building consent to install a spa pool.</li> <li>• Councils will now be required to inspect swimming pools every five years because pool barriers tend to deteriorate over time.</li> </ul>	

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	<ul style="list-style-type: none"> <li>• Retailers will now be required to inform people who buy spa and portable pools of the pool safety rules.</li> <li>• People will have more clarity and flexibility when installing new pool barriers</li> </ul> <p>Doors opening directly to the pool area will need to be self-closing or fitted with an alarm.</p> <ul style="list-style-type: none"> <li>• Non-residential pools (such as public, school and hospital pools) will be removed from the pool safety regime.</li> <li>• Garden ponds and other water hazards will be exempt from the rules.</li> </ul>	
<p><b>Resource Management Act 1991</b> <b>(Phase 2 amendments)</b></p>	<p>During the last term of Government proposed amendments to the RMA were announced. Some of those amendments were enacted and the remainder (Phase Two amendments) are understood to be proposed to be enacted during the current term. The following taken from the Ministry for the Environment website gives some context to the proposals.</p> <p><i>These proposals would make further improvements to the RMA and resource management more broadly, including how fresh water is managed and used. Main elements of the proposals include:</i></p> <ul style="list-style-type: none"> <li>• <i>clearer national direction and tools</i></li> <li>• <i>single, local resource management plans that address future environmental and development priorities and cover all local, regional and national issues; replacing the range of planning documents we have today</i></li> <li>• <i>simpler, faster and fewer resource consents</i></li> <li>• <i>Māori interests and values to be considered earlier in resource management planning processes with solutions developed upfront</i></li> <li>• <i>comprehensive management of natural hazards in planning and consenting</i></li> </ul>	<p><b>As at 12 October 2015</b></p> <p><b>The programme for the roll out of the Phase II amendments is not yet available.</b></p>

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	<ul style="list-style-type: none"> <li><i>housing affordability addressed through explicit attention being paid to this issue in plans and changes to consenting arrangements to drive down their cost and improve their timeliness.</i></li> </ul>	
<p><b>Land Transport (Speed Limits Validation and Other Matters) Act</b></p> <p><b>Omnibus Bill</b></p>	<p>The Department of Internal Affairs has written to all councils advising of the Land Transport (Speed Limits Validation and Other Matters) Act and advising that councils should now review their processes for setting speed limits, and bylaws generally (as this Council now is). The Department intends to follow up with each council about bylaw issues and rates-setting practices.</p> <p>The Department also advises that it is preparing an Omnibus Bill that will “remove outdated and unnecessary compliance requirements” – responding in part to the Rules Reduction Taskforce.</p>	