

**REGULATORY MANAGEMENT COMMITTEE  
MATTERS UNDER ACTION – REGULATORY LEGISLATION UPDATE**

**FOR 28 August 2014**

Legislative Item	Parliamentary Progress as at 14 August 2014	Comment as at 17 July 2014	Update as at 14 August 2014
<p><b>Building Amendment Act 2012</b></p>	<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>This Amendment 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 proposed 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 quality system that is being used for work rather than work itself.</li> </ul>	<p>Central government has slowed down the progression of the risk based consent system. There is unlikely to be any progress this year.</p>
<p><b>Building Amendment Act 2013</b></p>	<p>Enacted November 2013.</p> <p>Most clauses (see next column) came into effect on 28 November 2013. The commencement date for the</p>	<p>This Amendment Act is part of a package of changes which introduce new measures to improve the building and construction sector, ensuring that it delivers good quality, affordable homes and buildings and contributes to a prosperous economy.</p>	<p>There has been no substantial progress for this legislation. Implementation of the dam safety scheme was recently deferred for a year, until 1 July 2015. The new consumer protection measures</p>

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	<p>remaining clauses will be set by Order in Council.</p>	<p>Amendments with effect from 28 November include:</p> <ul style="list-style-type: none"> <li>• the type of work that does not require a building consent has changed,</li> <li>• higher penalties for doing building work without the appropriate consents now apply,</li> <li>• a number of terms and definitions have been changed,</li> <li>• councils have increased authority to restrict entry to buildings that may be near to buildings that are dangerous. This will require Council's dangerous building policy to be reviewed and consulted on within a reasonable period.</li> <li>• MBIE has more power to hold building consent authorities to account, and</li> <li>• the way dams are defined and measured has changed.</li> </ul> <p>Other changes to take effect in mid-2014 include: changes to the dam safety scheme and new consumer protection measures.</p> <p>Most of these changes relate to Territorial Authority Building functions or consumer protection. However if required, appropriate changes will be made to the KCDC Building Control Authority Quality Assurance Manual.</p>	<p>will come into force by Order in Council, although there is no indication when such an Order may be made.</p>
<p><b>Building (Earthquake-prone buildings) Amendment Bill 2013</b></p>	<p>Bill introduced into Parliament before Christmas and will be going to select committee.</p>	<p>The key components of this Bill are:</p> <ul style="list-style-type: none"> <li>• 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</li> </ul>	<p>The Bill received its First Reading on 5 March 2014 and was referred to the Local Government and Environment Commission. Submissions to this select committee closed on 17 April 2014. The select committee is due to report on the Bill to Parliament on or before 5</p>

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		<p>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 framework to be specified and published by MBIE.</li> <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>September 2014. The Bill will not pass before the election, although the Government may choose to reinstate it at its current stage of progress following the election.</p> <p>Recent comments from government ministers have mentioned changes to the bill to modify the timeframes and types of buildings that may be impacted</p>
<b>Sale and Supply of Alcohol Act 2012</b>	<p>Enacted December 2012. Effective 18 December 2013.</p>	<p>The Sale and Supply of Alcohol Act 2012 introduced changes to alcohol management in the community, including a new cost recovery regime set by the Ministry of Justice that came into effect from 18 December 2013.</p> <p>Subsequently, since that date the in the 2013/14 Annual Plan no longer apply. This change was signalled in the Plan (Part Two page 98 refers).</p>	<p>No legislative changes or amendments have occurred since the last update.</p>
<b>Food Bill 2010</b>	<p>Since last considered by the Primary Production Select Committee in 2010, there has been a lot of public debate about the content of the Food Bill, including the powers of enforcement officers, genetic modification, and community fundraising through</p>	<p>If/when passed into law, the Food Bill will replace the Food Act 1981 and introduce some fundamental changes to NZ's domestic food regulatory regime. The Bill 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</p>	<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>

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	<p>sausage sizzles and cake stalls. The Bill has subsequently been updated to address some of the public concerns. This has meant reviewing several versions of a large piece of legislation with many people involved.</p> <p>Supplementary Order Paper No. 278 (SOP) was introduced on 17 July 2013. The SOP, which makes a large number of changes to the Food Bill, was sent to the select committee for review, and public submissions on the SOP closed in August 2013. The deadline for the select committee to report back to Parliament on the SOP is 6 May 2014. The Bill will then need to go through its second reading, committee of the whole, and its third reading. Presumably it will either pass prior to the 2014 general election or it will be further delayed.</p>	<p>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 rules for training, registration and other food safety aspects, and</li> <li>• improve compliance and enforcement.</li> </ul> <p>The Ministry for Primary Industries website states that about 20% of the New Zealand workforce is involved in food-related work. These changes will help to manage food safety and suitability issues more effectively, improve certainty and minimise compliance costs for food businesses.</p> <p>Where appropriate these new requirements will be reflected in the yet to be developed Environmental Health quality assurance system.</p> <p>As noted at the Annual Plan briefing, the latest information available suggests that the Bill is before the Select Committee and the Food Minister is seeking to have the Bill past prior to the General Election.</p>	
<p><b>Resource Management Amendment Act (No 2) 2011</b></p>	<p>Section 14 of the Resource Management Amendment Bill (No 2) 2011 introduced changes to the accreditation requirements of the RMA.</p> <p>Effective from 12 September 2014.</p>	<p>The most significant changes to the accreditation requirements are:</p> <ul style="list-style-type: none"> <li>• an extension to the range of hearings for which accreditation is required.</li> <li>• accreditation will be required for hearings on: <ul style="list-style-type: none"> <li>- reviews of resource consents,</li> <li>- applications to change or cancel resource consent conditions,</li> <li>- proposed policy statements and plans, and</li> <li>- any hearing of an objection under section 357C of the RMA.</li> </ul> </li> <li>• the requirement for all members of hearing</li> </ul>	<p>No legislative changes or amendments have occurred since the last update.</p>

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		<p>panels to be accredited, unless there are exceptional circumstances.</p> <p>Where appropriate these new requirements will be reflected in the yet to be developed Resource Consents and Compliance quality assurance system.</p>	
<p><b>Resource Management Amendment Act 2013</b></p>	<p>These reforms were collectively known as the Resource Management Reform Bill 2012 (the Bill). The Bill had its first reading on 11 December 2012. It was referred to the Environment and Local Government Select Committee. Submissions closed on 28 February 2013. The Bill was reported back to the House of Representatives on 11 June 2013.</p> <p>A Supplementary Order Paper split the Bill into three Bills, all of which passed into law in September 2013.</p>	<p>The key components of the Resource Management Amendment Act 2013 are:</p> <ul style="list-style-type: none"> <li>• new and clearer information requirements for all resource consent applications,</li> <li>• a new six-month timeframe for decision-making on resource consent applications that are notified and limited notified (130 and 100 working days respectively),</li> <li>• changes to improve the accessibility of the direct referral process and to introduce an investment threshold for projects,</li> <li>• changes to section 32 of the RMA to improve the evaluation of effects of objectives, policies and rules,</li> <li>• changes to provisions relating to the blanket protection rules for trees,</li> <li>• changes to section 360 of the RMA to allow regulations to be made requiring local authorities to monitor environmental data to inform better decision making, and</li> <li>• minor and technical changes to improve the workability of the RMA.</li> </ul> <p>Where appropriate these new requirements will be reflected in (1) KPI's and (2) the yet to be developed Resource Consents and Compliance quality assurance system.</p>	<p>No legislative changes or amendments have occurred since the last update.</p> <p>A report including the details of these amendments and their implications will be provided at the August Regulatory Management Committee meeting.</p>

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<p><b>Fencing of Swimming Pools Act 1987</b></p>	<p>The Government will 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> <p>In the meantime, councils and pool owners must comply with the current Act.</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 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 worth noting 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</li> </ul>	<p>There has been no further indication from Central Government as to when this proposal is likely to regain momentum. Further feedback is unlikely until the election is over and the new Government is formed.</p>

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		<p>an additional means of restricting access,</p> <ul style="list-style-type: none"> <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>	
<b>Criminal Procedure Act 2011</b>	Effective 18 October 2013	<p>Provisions of the Criminal Procedure Act 2011 not already in force under s 2(1) and 292) of the Act came into force on 18 October 2013 as specified in s 2(3).</p> <p>These provisions, which relate to various offence provisions in the Act, state that penalties apply on conviction.</p>	
<b>Search and Surveillance Act 2012</b>	Effective 1 April 2014	<p>Dog Control Officers and relevant Environmental Health Officers, from 1 April 2014 will need to comply with Part 4 of the Search and Surveillance Act 2012, relating to search, surveillance, and inspection powers.</p> <p>Warrants to enter a dwelling house can also be issued by authorised people including Justices of</p>	

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		<p>the Peace and Registrar</p> <p>Where appropriate these new requirements will be reflected in (1) the Animal Control quality assurance system currently being developed and (2) the yet to be developed Compliance Monitoring quality assurance system.</p>	
<p><b>Local Government Act 2002 Amendment Bill (No 3)</b></p>	<p>Currently at the Local Government and Environment Select Committee</p>	<ul style="list-style-type: none"> <li>▪ The proposed legislation involves significant changes to the development contributions (DC) regime.</li> <li>▪ The proposed definition of community infrastructure is limited to public toilets, play equipment in reserves and community halls. DCs already collected may be retained. Projected DCs yet to be collected for projects outside of the new definition may only be collected if they can be applied to similar projects. For this Council, it will mean shifting debt for the recent library upgrades and the Coastlands Aquatic Centre to rates, adding approximately 1% to the rates bill over the next 20 years.</li> <li>▪ The system of averaging development costs over all developments would no longer be possible – DCs will only be able to be charged for the costs triggered within the development footprint or by the direct extra load of the particular development on networks. This may oblige the Council to revert to catchment-based funding for water, wastewater and roads.</li> <li>▪ A new objections process is proposed to allow appeals of decisions made by councils in relation to DC charges. New development commissioners would be appointed. Their decisions would only be</li> </ul>	<p>Submissions on the Bill to the Local Government and Environment Committee closed on 14 February 2014, after which the select committee reported back to Parliament on 12 May 2014. The Bill had its Second Reading on 27 May 2014, and passed through the Committee of the Whole House stage on 29 May 2014. All that remains is for the Bill to have its Third Reading and to receive the Royal Assent.</p> <p>This Bill was passed through Parliament and had royal assent on 7 August 2014. Many of its provisions commenced on 8 August 2014. The consequences of this will be outlined in a separate paper.</p>

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		<p>challengeable through judicial review.</p> <ul style="list-style-type: none"> <li>▪ Transition timeframes proposed by the effective dates for various parts of the Bill will be very difficult to achieve and, in the case of the revision of DC policies, impossible.</li> </ul>	