



COVERSHEET

Minister	Hon Jenny Salesa	Portfolio	Building and Construction
Title of Cabinet paper	Building (Exempt Building Work) Order 2020	Date to be published	7 September 2020

List of documents that have been proactively released

Date	Title	Author
21 July 2020	Building (Exempt Building Work) Order 2020	Office of Hon Jenny Salesa
21 July 2020	LEG-20-MIN-0100 Minute	Cabinet Office

Information redacted

NO

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

In Confidence

Office of the Minister for Building and Construction
Chair, Cabinet Legislation Committee

Building (Exempt Building Work) Order 2020

Proposal

1. This paper seeks authorisation for submission to the Executive Council of the Building (Exempt Building Work) Order 2020, which extends the list of building work that is exempt from requiring a building consent.

Policy

2. The Government's Building System Legislative Reform Programme [CAB-19-MIN-0507 and CAB-19-MIN-0508 refer] provides an opportunity to extend the list of building consent exemptions in Schedule 1 of the Building Act 2004 (Schedule 1) and improve the operation of existing exemptions, to improve the effectiveness, efficiency and clarity of the building regulatory system. Extending building consent exemptions will also remove some costs from the building regulatory system and help to support the COVID-19 recovery.
3. Under the Building Act 2004, a person must not carry out any building work except in accordance with a building consent. However, Schedule 1 recognises that some building work does not need to be subject to the requirements of the building consent process and is therefore exempt from needing a building consent. Building work that is exempt from needing a building consent must still comply with the Building Code and other legislative requirements, such as those under the Resource Management Act 1991.
4. On 11 May 2020, following reference from the Cabinet Economic Development Committee, Cabinet agreed to extend Schedule 1 with a package of additional exemptions [DEV-20-MIN-0064 and CAB-20-MIN-0215 refer]. The package covers a wide range of building work carried out in urban and rural areas. Each of the additional exemptions in the package has conditions to manage risk.
5. The attached Order in Council gives effect to the decisions above. It includes additional exemptions for: single-storey detached buildings, carports, awnings, verandas and porches, outdoor fireplaces, flexible water storage bladders, short-span bridges, pipe supporting structures, ground-mounted solar array panels, and detached single-storey pole sheds and hay barns.
6. Some of the exemptions are new. Some are expanded versions of existing exemptions. To manage risk, some of the exemptions require the design to be carried out or reviewed by a Chartered Professional Engineer, or the design and construction to be carried out or supervised by a Licensed Building Practitioner (LBP). Note that for the purposes of the exemptions, the definition of an LBP

includes those persons automatically licensed under section 291 of the Building Act 2004, such as Registered Architects.

7. The changes remove the need for Building Consent Authorities to review the design and construction of this work, enabling them to focus their time and resources on building work that presents a higher risk to people and property. By not requiring a building consent and subsequent inspections for this work, homeowners and building owners also benefit from fewer compliance costs, and savings in time.
8. The exemptions involving Licensed Building Practitioners that were to be included in the Building (Products and Methods, Modular Components and Other Matters) Amendment Bill have now been included in this draft Order. This means that all the exemptions in the package will come into force on 31 August 2020.

Timing and 28-day rule

9. The Building (Exempt Building Work) Order 2020 will be submitted to Executive Council after Cabinet's agreement. The Order in Council will come into force on 31 August 2020 following the 28-day rule.

Compliance

10. The Order in Council complies with each of the following:
 - 10.1. the principles of the Treaty of Waitangi;
 - 10.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
 - 10.3. the principles and guidelines set out in the Privacy Act 1993;
 - 10.4. relevant international standards and obligations;
 - 10.5. the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

11. I do not consider there to be any grounds for the Regulations Review Committee to draw this Order in Council to the attention of the House of Representatives under Standing Order 319.

Certification by Parliamentary Counsel

12. The draft Order in Council was certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Impact Analysis

13. A Regulatory Impact Statement was prepared in accordance with the necessary requirements, and was submitted at the time that Cabinet approval was sought of the policy relating to the Order in Council [DEV-20-SUB-0064 refers]. The Ministry of

Business, Innovation and Employment's Regulatory Impact Analysis Review Panel determined that it met the criteria necessary for Ministers to make informed decisions on the proposals.

Publicity

14. I intend to issue a media statement once the Order in Council has been made.
15. MBIE will inform relevant sector stakeholders.

Proactive release

16. I propose that this paper and the attached minute are proactively released within 30 working days of the final decision being made by Cabinet. The release of the information is subject to redactions consistent with the Official Information Act 1982.

Consultation

17. The following agencies have been consulted on this paper: Department of the Prime Minister and Cabinet, Ministry for the Environment, Ministry of Housing and Urban Development, Department of Internal Affairs, Fire and Emergency New Zealand, Ministry for Primary Industries, The Treasury, Kāinga Ora, Department of Conservation, New Zealand Transport Agency and WorkSafe New Zealand. Te Puni Kōkiri has been informed.

Recommendations

I recommend that the Cabinet Legislation Committee:

1. **note** that on 11 May 2020, Cabinet agreed to extend the list of building work that is exempt from requiring a building consent under Schedule 1 of the Building Act 2004 with a package of additional exemptions [CAB-20-MIN-0215 refers];
2. **note** that the Building (Exempt Building Work) Order 2020 will give effect to the decision referred to in paragraph 1 above;
3. **authorise** the submission to the Executive Council of the Building (Exempt Building Work) Order 2020;
4. **note** that the Building (Exempt Building Work) Order 2020 will come into force on 31 August 2020.

Authorised for lodgement

Hon Jenny Salesa

Minister for Building and Construction