



COVERSHEET

Minister	Hon Chris Penk	Portfolio	Minister for Building and Construction
Title of Cabinet paper	Building (Accreditation of Building Consent Authorities) Amendment Regulations 2024	Date to be published	25 June 2024

List of documents that have been proactively released		
Date	Title	Author
May 2024	Building (Accreditation of Building Consent Authorities) Amendment Regulations 2024	Office of the Minister for Building and Construction
9 May 2024	Building (Accreditation of Building Consent Authorities) Amendment Regulations 2024 LEG-24-MIN-0076 Minute	Cabinet Office

Information redacted

YES / NO (please select)

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Some information has been withheld for the reason of Confidential advice entrusted to the Government.

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

Building (Accreditation of Building Consent Authorities) Amendment Regulations 2024

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the Building (Accreditation of Building Consent Authorities) Amendment Regulations 2024.

Relation to Government Priorities

- 2 These changes support the Government's commitment to increase housing supply by improving efficiency and competition in the building system, reducing barriers, and driving down costs. The changes improve the workability and clarity of the *Building (Accreditation of Building Consent Authorities) Regulations 2006*, including freeing up resource for processing building consent applications, carrying out inspections and issuing code of compliance certificates.

Policy

- 3 The *Building (Accreditation of Building Consent Authorities) Regulations 2006* (the Accreditation Regulations) set out the minimum policies, procedures, and systems that a building consent authority must have to be accredited to perform its building control functions and to maintain accreditation under the *Building Act 2004*.
- 4 In 2023, the Ministry of Business, Innovation and Employment (MBIE) completed a targeted review of the Accreditation Regulations to improve their efficiency and effectiveness, undertaking targeted consultation with affected stakeholders. This included reviewing the frequency of the competency assessments for building control officers, the fees for the accreditation and audit of building consent authorities to ensure cost recovery, as well as other minor changes to improve the Accreditation Regulations.
 - 4.1 The current requirement for annual competency assessments of employed building control officers is not cost effective or proportionate. It is out of line with other regulated occupations (e.g the Licenced Building Practitioners regime requires competency to be assessed every two years).
 - 4.2 Building Consent Authority accreditation fees have not been adjusted since 2017 and no longer ensure cost recovery. International Accreditation New Zealand (IANZ) is now making a substantial loss on the provision of accreditation services on current fee levels Confidential information entrusted to the Government

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IANZ has advised MBIE it cannot continue to operate based on the current fee levels.

- 4.3 Building consent authorities are required to notify MBIE and IANZ of the departure of a building consent authority's authorised representative or responsible manager; however, they are not currently required to notify the departure of the quality assurance manager. The departure of the quality assurance manager can have a significant effect on how well a building consent authority performs. In addition, the drafting of some of the Accreditation Regulations can also be improved for clarity and workability.
- 5 On 11 March 2024, Cabinet agreed to the policy proposals to amend the Accreditation Regulations [ECO-24-MIN-0019 and CAB-24-MIN-0069 refer]. The policy decisions provided for the following changes:
 - 5.1 reducing the frequency of competency assessments for building control officers under Regulation 10(2), from annually to every two years (with the ability to carry out assessments more frequently if needed);
 - 5.2 adjusting the fees for accreditation of building consent authorities set out in Schedule 2 of the Accreditation Regulations to ensure they reflect cost recovery (accreditation audits usually occur every two years);
 - 5.3 minor changes to Regulation 6A to add that the departure of a building consent authority's quality assurance manager must be notified to MBIE and IANZ; and
 - 5.4 the drafting of Regulation 7(2)(f) to separate out the matters related to policies and procedures for performing building control functions into standalone provisions (ie, issuing and refusing to issue code compliance certificates, compliance schedules and notices to fix) to improve clarity and workability.
- 6 The changes to the frequency of competency assessments for building control officers will free up time for processing building consent applications, carrying out inspections and issuing code of compliance certificates.
- 7 Overall, the reduction in costs for building consent authorities associated with reduced frequency of competency assessments for building control officers significantly offsets the increased accreditation fees. It is my expectation that building consent fees will not be increased as a result of these changes.

Timing and 28-day rule

- 8 I propose that these Building (Accreditation of Building Consent Authorities) Amendment Regulations 2024 will be made on 13 May 2024 and notified in the New Zealand Gazette on 16 May 2024, subject to Executive Council agreement. A waiver of the 28-day rule is not sought. The amendment regulations will come into effect on 17 June 2024.

Compliance

- 9 The regulations comply with:

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- 9.1 the principles of the Treaty of Waitangi;
- 9.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
- 9.3 the principles and guidelines set out in the Privacy Act 2020;
- 9.4 relevant international standards and obligations;
- 9.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

- 10 I do not consider there are any grounds for the Regulations Review Committee to draw regulations to the attention of the House of Representatives under Standing Order 327.

Certification by Parliamentary Counsel

- 11 The regulations were prepared and certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Impact Analysis

- 12 The Treasury's Regulatory Impact Analysis team has determined that the regulatory stewardship changes to the Accreditation Regulations which include making some minor changes to Regulation 6A and 7(2)(f) to improve clarity and workability, are exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities.
- 13 A Regulatory Impact Statement on the remaining aspects of the Accreditation Regulations (Regulation 10(2)) was submitted on 28 February 2024 when Cabinet approval was sought for the policy relating to the regulations. A Cost Recovery Impact Statement for increasing the fees for accreditation of building consent authorities was also submitted [ECO-24-MIN-0019 and CAB-24-MIN-0069 refer].

Publicity

- 14 MBIE will advise stakeholders once the regulations are made.

Proactive release

- 15 I intend to release this paper proactively in full. MBIE will publish a copy of this paper on its website.

Consultation

- 16 The following agencies have been consulted on this paper: Department of Prime Minister and Cabinet, Ministry for the Environment, Ministry of Housing and Urban Development, Department of Internal Affairs, Kāinga Ora, Te Puni Kōkiri,

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Parliamentary Council Office, Treasury, Ministry of Transport, Ministry for Pacific Peoples, Ministry of Education, Ministry of Social Development, Ministry of Health, Department of Corrections, Commerce Commission, WorkSafe New Zealand, Department of Conservation, Ministry of Defence, Ministry for Primary Industries, Statistics New Zealand, and the Ministry for Culture and Heritage.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that on 6 March 2024, the Cabinet Economic Policy Committee agreed to policy decisions for amending the *Building (Accreditation of Building Consent Authorities) Regulations 2006* to:
 - 1.1 reduce the frequency of competency assessments for building control officers from annually to every two years (with the ability to carry out assessments more frequently if needed);
 - 1.2 adjust the accreditation fees for building consent authorities to reflect cost recovery;
 - 1.3 make minor changes relating to notifications and drafting in order to improve clarity and workability [ECO-24-MIN-0019 and CAB-24-MIN-0069 refer].
- 2 **note** that the *Building (Accreditation of Building Consent Authorities) Amendment Regulations 2024* will give effect to the decision referred to in recommendation 1 above;
- 3 **authorise** the submission to the Executive Council of the *Building (Accreditation of Building Consent Authorities) Amendment Regulations 2024*;
- 4 **note** that the *Building (Accreditation of Building Consent Authorities) Amendment Regulations 2024* will come into force on 17 June 2024;

Authorised for lodgement

Hon Chris Penk

Minister for Building and Construction

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