

Version  
as at 14 October 2021



**Building (Infringement Offences, Fees, and Forms)  
Regulations 2007**  
(SR 2007/403)

Anand Satyanand, Governor-General

**Order in Council**

At Wellington this 17th day of December 2007

Present:

His Excellency the Governor-General in Council

Pursuant to section 402(1)(y) to (za) of the Building Act 2004, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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**Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**These regulations are administered by the Ministry of Business, Innovation, and Employment.**

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## **Regulations**

### **1 Title**

These regulations are the Building (Infringement Offences, Fees, and Forms) Regulations 2007.

### **2 Commencement**

These regulations come into force on 1 July 2008.

### **3 Infringement offences**

The offences described in the first 2 columns of Schedule 1 are infringement offences.

### **4 Infringement fees**

The fees specified in the third column of Schedule 1 are the infringement fees for the infringement offences described in the 2 previous columns.

### **5 Infringement forms**

- (1) The form in Schedule 2 is the infringement notice.
- (2) The form in Schedule 3 is the infringement reminder notice.

## Schedule 1

### Infringement offences and fees

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Schedule 1: replaced, on 1 January 2015, by regulation 4 of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2014 (LI 2014/362).

| <b>Provision of<br/>Building Act 2004</b> | <b>Description of offence</b>   | <b>Fee (\$)</b> |
|---|---|-----------------|
|   | <i>General building offences</i>  |                 |
| s 40                                      | Failing to comply with the requirement that building work must be carried out in accordance with a building consent   | 1,000           |
| s 42                                      | Failing to apply for a certificate of acceptance for urgent building work as soon as practicable after completion of building work                                    | 500             |
| s 85(1)                                   | Person who is not licensed building practitioner carrying out restricted building work without supervision of licensed building practitioner with appropriate licence | 750             |
| s 85(2)(a)                                | Licensed building practitioner carrying out restricted building work without appropriate licence  | 500             |
| s 85(2)(b)                                | Licensed building practitioner supervising restricted building work without appropriate licence   | 500             |
| s 101                                     | Failing to comply with the requirement to obtain a compliance schedule  | 250             |
| s 108(5)(aa)                              | Failing to supply territorial authority with a building warrant of fitness  | 250             |
| s 108(5)(a)                               | Failing to display a building warrant of fitness required to be displayed   | 250             |
| s 108(5)(b)                               | Displaying a false or misleading building warrant of fitness  | 1,000           |
| s 108(5)(c)                               | Displaying a building warrant of fitness other than in accordance with section 108  | 1,000           |
| s 116B(1)(a)                              | Using, or knowingly permitting the use of, a building for a use for which it is not safe or not sanitary  | 1,500           |
| s 116B(1)(b)                              | Using, or knowingly permitting the use of, a building that has inadequate means of escape from fire   | 2,000           |
| s 124                                     | Failing to comply with a notice, within the time stated in the notice, requiring work to be carried out on a dangerous or insanitary building                         | 1,000           |
| s 128A(2)                                 | Using or occupying a building, or permitting another person to do so, contrary to a territorial authority's hoarding, fence, or notice                                | 2,000           |
| s 162E                                    | Supplying a pool product without an approved notice   | 500             |
| s 168(1AA)                                | Failing to comply with a notice to fix in relation to a means of restricting access to a residential pool   | 500             |
| s 168(1)                                  | Failing to comply with any other notice to fix  | 1,000           |
| s 314(1)                                  | Person holding himself or herself out as being licensed to do or supervise building work or building inspection work while not being so licensed                      | 500             |
| s 362D(4)                                 | Failing to provide prescribed disclosure information  | 500             |
|   | Failing to provide prescribed checklist   | 500             |
| s 362F(4)                                 | Failing to have a written contract as prescribed  | 500             |

| <b>Provision of Building Act 2004</b> | <b>Description of offence</b>  | <b>Fee (\$)</b> |
|---------------------------------------|--|-----------------|
| s 362T(4)                             | Failing to provide prescribed information or documentation to specified persons  | 500             |
| s 363                                 | Using, or permitting use of, building having no consent or code compliance certificate or certificate for public use for premises for public use         | 1,500           |
| s 367                                 | Wilfully obstructing, hindering, or resisting a person executing powers conferred under the Act or its regulations                                       | 500             |
| s 368                                 | Wilfully removing or defacing a notice published under the Act or inciting another person to do so   | 500             |
|                                       | <i>Earthquake-prone building offences</i>  |                 |
| s 133AU(1)                            | Failing to complete seismic work by deadline   | 1,000           |
| s 133AU(2)                            | Failing to comply with requirement to attach EPB notice or EPB exemption notice  | 1,000           |
| s 133AU(3)                            | Failing, when EPB notice or EPB exemption notice ceases to be attached or becomes illegible, to notify the territorial authority                         | 1,000           |
| s 133AU(5)                            | Using or occupying an earthquake-prone building, or permitting another person to do so, contrary to a territorial authority's hoarding, fence, or notice | 2,000           |
|                                       | <i>Dam safety offences</i>   |                 |
| s 134C                                | Dam owner failing to classify a dam  | 500             |
| s 138                                 | Dam owner failing to comply with a direction from a regional authority to have a classification re-audited and submitted                                 | 250             |
| s 140                                 | Dam owner failing to prepare, or to arrange the preparation of, a dam safety assurance programme and submit it for audit                                 | 500             |
| s 145                                 | Dam owner failing to comply with a direction from a regional authority to have a dam safety assurance programme re-audited and submitted                 | 250             |
| s 150(4)(a)                           | Dam owner knowingly failing to display a dam compliance certificate required to be displayed   | 250             |
| s 150(4)(b)                           | Dam owner displaying a false or misleading dam compliance certificate  | 1,000           |
| s 150(4)(c)                           | Dam owner displaying a dam compliance certificate otherwise than in accordance with section 150  | 1,000           |
| s 154                                 | Dam owner failing to comply with a notice, within the time stated in the notice, requiring work to be carried out on a dangerous dam                     | 2,000           |

Schedule 1: amended, on 1 July 2017, by regulation 4(1) of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2017 (LI 2017/137).

Schedule 1: amended, on 1 July 2017, by regulation 4(2) of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2017 (LI 2017/137).

Schedule 1: amended, on 1 January 2017, by section 20 of the Building (Pools) Amendment Act 2016 (2016 No 71).

## **Schedule 2 Infringement notice**

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### **Form Infringement notice Section 373, Building Act 2004**

#### **(Front page)**

Notice No:

#### **Enforcement authority**

*[specify the relevant enforcement authority (ie, the Ministry of Business, Innovation, and Employment, a territorial authority, or a regional authority)]*

#### **To**

Full name:

Full address:

Occupation, if known:

Date of birth, if known:

#### **Details of alleged infringement offence(s)**

Provision of Building Act 2004:

Description of offence:

Date:

Time:

Place:

Fee:

#### **Time for payment of infringement fee(s)**

The infringement fee(s) is *(or are)* payable within 28 days after *[date this notice is delivered personally or served by post]*.

#### **Place for payment of infringement fee(s)**

The infringement fee(s) is *(or are)* payable to *[specify address of enforcement authority]*.

Issued by: *[signature and full name of enforcement officer]*.

**Important:** Please read the summary of rights printed over the page.

*(Back page)*

**Summary of rights**

Please read this summary. If you do not understand it, you should consult your lawyer immediately.

- 1 This notice sets out 1 or more infringement offences that you are alleged to have committed.

The ways you may deal with the offence are set out below. However, paragraphs 6(b) and (c), 7, and 8 do **not** apply to you if you enter, or have already entered, into a time-to-pay arrangement under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957.

You may act in the same way on all the offences or in different ways on different offences.

***Payments***

- 2 If you pay the fee for the offence within 28 days after you get this notice, there will be no further enforcement action against you for the offence. You can pay to the enforcement authority at the place shown on the front page of this notice.

***Defences***

- 3 You have a complete defence against proceedings for an offence if the fee for the offence has been paid to the enforcement authority at the place shown on the front page of this notice within 28 days after you get a reminder notice. Late payment is not a defence and neither is payment made at any other place.

- 4 This paragraph describes a defence additional to the one described in paragraph 3. You must prove either of the following to have the defence:

(a) that—

- (i) the action or event to which the offence relates was necessary for the purposes of saving or protecting life or health or preventing serious damage to property; and
- (ii) your conduct was reasonable in the circumstances; and
- (iii) you adequately mitigated or remedied the effects of the action or event after it occurred; or

(b) that—

- (i) the action or event to which the offence relates was due to an event beyond your control, including natural disaster, mechanical failure, or sabotage; and
- (ii) you could not reasonably have foreseen or provided against the action or event; and
- (iii) you adequately mitigated or remedied the effects of the action or event after it occurred.

- 5 This paragraph describes a defence additional to those described in paragraphs 3 and 4. This defence is available if—
- (a) you are—
    - (i) a principal; or
    - (ii) an employer; and
  - (b) you may be liable for an offence alleged to have been committed by—
    - (i) your agent; or
    - (ii) your employee.

If you are a natural person, including a partner in a firm, you must prove either of the following to have the defence:

- (a) that you—
  - (i) did not know, and could not reasonably be expected to have known, that the offence was to be, or was being, committed; and
  - (ii) took all reasonable steps to remedy any effects of the act or omission giving rise to the offence; or
- (b) took all reasonable steps to—
  - (i) prevent the commission of the offence; and
  - (ii) remedy any effects of the act or omission giving rise to the offence.

If you are a body corporate, you must prove either of the following to have the defence:

- (a) that—
  - (i) neither the directors nor any person involved in the management of the body corporate knew, or could reasonably be expected to have known, that the offence was to be, or was being, committed; and
  - (ii) you took all reasonable steps to remedy any effects of the act or omission giving rise to the offence; or
- (b) that you took all reasonable steps to—
  - (i) prevent the commission of the offence; and
  - (ii) remedy any effects of the act or omission giving rise to the offence.

### ***Further action***

- 6 You may write a letter to the enforcement authority if you want to do 1 of the following:
- (a) raise a matter about the circumstances of the offence for the enforcement authority to consider; or

- (b) deny liability for the offence and ask for a court hearing (refer to paragraphs 7 and 11); or
- (c) admit liability for the offence but have a court consider written submissions (refer to paragraphs 8 and 11).

You must sign the letter yourself; direct it to the enforcement authority's address shown on the front page of this notice; and ensure it arrives within 28 days after you get this notice.

- 7 If you deny liability for the offence and ask for a court hearing, the enforcement authority will consider whether it will bring proceedings against you for the offence. If it decides to bring proceedings, it will serve you with a notice of hearing setting out the place and time at which you will have an oral hearing before the court.
- 8 If you admit liability for the offence but want to have a court consider written submissions, you must do the following in your letter to the enforcement authority:
- (a) admit liability; and
  - (b) ask for a hearing; and
  - (c) set out the written submissions that you want the court to consider.

The enforcement authority will consider whether it will bring proceedings against you for the offence. If it decides to bring proceedings, it will file your letter with the court. You will not have an oral hearing before the court.

### ***Non-payment of fee***

- 9 If you do not pay the fee and do not ask for a court hearing within 28 days after you get this notice, the enforcement authority will decide whether to serve you with a reminder notice.
- 10 If you do not pay the fee and do not ask for a court hearing within 28 days after you get the reminder notice, the enforcement authority will consider whether it will bring proceedings against you for the offence. If it does, you are liable to pay a fine and court costs.

### ***Queries and correspondence***

- 11 When you are writing to the enforcement authority or paying a fee, please state—
- (a) the date of the offence; and
  - (b) the number of this infringement notice; and
  - (c) if this notice sets out more than 1 offence, whether you are paying all the fees for all the offences; and
  - (d) if paragraph (c) does not apply, how you are dealing with each offence; and



(e) your full address for replies.

If it is not clear which offence a payment is for, the payment may be treated as for the offences in the order in which they are set out on the front page of this notice.

All queries and correspondence about the offence(s) must be made to the enforcement authority at the address shown on the front page of this notice.

Schedule 2: amended, on 14 October 2021, by regulation 4 of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2021 (LI 2021/254).

Schedule 2: amended, on 8 June 2015, by regulation 4(1) of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2015 (LI 2015/79).

Schedule 2: amended, on 8 June 2015, by regulation 4(2) of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2015 (LI 2015/79).

Schedule 2: amended, on 8 June 2015, by regulation 4(4) of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2015 (LI 2015/79).

Schedule 2: amended, on 8 June 2015, by regulation 4(5) of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2015 (LI 2015/79).

Schedule 2: amended, on 8 June 2015, by regulation 4(6) of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2015 (LI 2015/79).

Schedule 2: amended, on 8 June 2015, by regulation 4(7) of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2015 (LI 2015/79).

Schedule 2: amended, on 8 June 2015, by regulation 4(8) of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2015 (LI 2015/79).

Schedule 2: amended, on 8 June 2015, by regulation 4(9) of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2015 (LI 2015/79).

Schedule 2: amended, on 8 June 2015, by regulation 4(10) of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2015 (LI 2015/79).

Schedule 2: amended, on 8 June 2015, by regulation 4(11) of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2015 (LI 2015/79).

Schedule 2: amended, on 8 June 2015, by regulation 4(12) of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2015 (LI 2015/79).

Schedule 2: amended, on 8 June 2015, by regulation 4(13) of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2015 (LI 2015/79).

Schedule 2: amended, on 8 June 2015, by regulation 4(14) of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2015 (LI 2015/79).

## Schedule 3

### Infringement reminder notice

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#### Form

Infringement reminder notice  
*Section 402(1)(za), Building Act 2004*

#### **(Front page)**

Notice No:

#### **Enforcement authority**

*[specify the relevant enforcement authority (ie, the Ministry of Business, Innovation, and Employment, a territorial authority, or a regional authority)]*

#### **To**

Full name:

Full address:

Occupation, if known:

Date of birth, if known:

#### **Details of alleged infringement offence(s)**

Provision of Building Act 2004:

Description of offence:

Date:

Time:

Place:

Fee:

#### **Time for payment of infringement fee(s)**

The infringement fee(s) was (or were) payable within 28 days after *[date infringement notice was delivered personally or served by post]*.

#### **Place for payment of infringement fee(s)**

The infringement fee(s) remains (or remain) payable to *[specify address of enforcement authority]*.

Issued by: *[signature and full name of enforcement officer]*.

#### **Details of service**

*(To be provided for filing in court)*

Infringement notice served by *[method of service]* on *[date of service]*.

Reminder notice served by [*method of service*] at [*full address of service*] on [*date of service*].

**Important:** Please read the summary of rights printed over the page.

**(Back page)**

### Summary of rights

Please read this summary. If you do not understand it, you should consult your lawyer immediately.

- 1 You did not pay the infringement fee described on the front page, or ask for a hearing, within 28 days after you got the infringement notice. That is why you have been served with this reminder notice.
- 2 You will become liable to pay a fine and court costs if—
  - (a) you do not pay the fee; and
  - (b) you do not ask for a hearing within 28 days after getting this reminder notice; and
  - (c) the enforcement authority decides to bring court proceedings against you.
- 3 You have a defence if you prove either of the following:
  - (a) that—
    - (i) the action or event to which the offence relates was necessary for the purposes of saving or protecting life or health or preventing serious damage to property; and
    - (ii) your conduct was reasonable in the circumstances; and
    - (iii) you adequately mitigated or remedied the effects of the action or event after it occurred; or
  - (b) that—
    - (i) the action or event to which the offence relates was due to an event beyond your control, including natural disaster, mechanical failure, or sabotage; and
    - (ii) you could not reasonably have foreseen or provided against the action or event; and
    - (iii) you adequately mitigated or remedied the effects of the action or event after it occurred.
- 4 In addition to the defence described in paragraph 3, you have a defence if—
  - (a) you are—
    - (i) a principal; or
    - (ii) an employer; and
  - (b) you may be liable for an offence alleged to have been committed by—

- (i) your agent; or
- (ii) your employee.

If you are a natural person, including a partner in a firm, you must prove either of the following to have the defence:

- (a) that you—
  - (i) did not know, and could not reasonably be expected to have known, that the offence was to be, or was being, committed; and
  - (ii) took all reasonable steps to remedy any effects of the act or omission giving rise to the offence; or
- (b) that you took all reasonable steps to—
  - (i) prevent the commission of the offence; and
  - (ii) remedy any effects of the act or omission giving rise to the offence.

If you are a body corporate, you must prove either of the following to have the defence:

- (a) that—
  - (i) neither the directors nor any person involved in the management of the body corporate knew, or could reasonably be expected to have known, that the offence was to be, or was being, committed; and
  - (ii) you took all reasonable steps to remedy any effects of the act or omission giving rise to the offence; or
- (b) that you took all reasonable steps to—
  - (i) prevent the commission of the offence; and
  - (ii) remedy any effects of the act or omission giving rise to the offence.

5 If you pay all the fees for all the offences described in the infringement notice in a lump sum, please provide a note of—

- (a) the infringement notice number; and
- (b) the date of each infringement offence; and
- (c) the identifying number of each offence.

6 If you do not pay all the infringement fees for all the offences described in the infringement notice in a lump sum, please provide a note of—

- (a) the offences you are paying fees for; and
- (b) the offences you are not paying fees for; and
- (c) what you are doing about the offences you are not paying fees for; and

(d) your full address for replies.

All queries and correspondence about the offence(s) must be made to the enforcement authority at the address shown on the front page of this notice.

Schedule 3: amended, on 14 October 2021, by regulation 5 of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2021 (LI 2021/254).

Schedule 3: amended, on 8 June 2015, by regulation 5(1) of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2015 (LI 2015/79).

Schedule 3: amended, on 8 June 2015, by regulation 5(2) of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2015 (LI 2015/79).

Schedule 3: amended, on 8 June 2015, by regulation 5(3) of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2015 (LI 2015/79).

Schedule 3: amended, on 8 June 2015, by regulation 5(5) of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2015 (LI 2015/79).

Schedule 3: amended, on 8 June 2015, by regulation 5(6) of the Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2015 (LI 2015/79).

Rebecca Kitteridge,  
for Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 20 December 2007.

## Reprints notes

### **1** *General*

This is a reprint of the Building (Infringement Offences, Fees, and Forms) Regulations 2007 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

### **2** *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3** *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4** *Amendments incorporated in this reprint*

Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2021 (LI 2021/254)

Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2017 (LI 2017/137)

Building (Pools) Amendment Act 2016 (2016 No 71): section 20

Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2015 (LI 2015/79)

Building (Infringement Offences, Fees, and Forms) Amendment Regulations 2014 (LI 2014/362)